

2/22/96 This is the Amended order granted 2-22-96!

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IN RE: DEVELOPMENT PLAN HEARING AND \* BEFORE THE  
PETITIONS FOR SPECIAL EXCEPTION and  
VARIANCE for Towson Marketplace \* DEPUTY ZONING COMMISSIONER  
S/S Joppa Road, E of Goucher Blvd.  
9th Election District \* OF BALTIMORE COUNTY  
4th Councilmanic District  
\* Case Nos. IX-386 and 96-95-XA  
Talisman-Towson Partnership, LLC  
Owner/Developer \*

\* \* \* \* \*

HEARING ON MOTION FOR RECONSIDERATION

This matter comes before this Hearing Officer/Deputy Zoning Commissioner on a Motion for Reconsideration of the Order issued in the above-captioned matter filed by John B. Gontrum, Esquire, Attorney for Talisman-Towson Partnership LLC, Owner/Developer of the subject property, known as Towson Marketplace. Specifically, by Order issued November 9, 1995, I granted approval of a development plan and a special exception for the proposed redevelopment of Towson Marketplace with a six-screen, 1500-seat capacity, movie theater complex, subject to certain terms and conditions. In addition, I granted relief to permit a previously approved variance of 368 parking spaces to be carried forward and utilized at this time, and dismissed as moot an additional parking variance of 3,000 parking spaces in lieu of the required 3,357.

Subsequent to the issuance of my decision, Counsel for the Developer filed the Motion for Reconsideration requesting a modification of my Order and the restrictions imposed therein. Specifically, the Developer no longer seeks to develop the site with movie theaters, given the limited number of screens which were approved pursuant to my Order and has requested that the level of security set forth in Restriction No. 1 of my Order be eliminated. In addition, since that area previously designated for use as a multi-theater complex will now be utilized as retail space, the

~~as a multi-theater complex will now be utilized as retail space, the~~  
Developer seeks a variance of 130 parking spaces.

The Developer, by his Motion for Reconsideration, has requested that I reconsider the parking variance which was dismissed as moot. In my Order, I granted approval to allow a previously approved parking variance of 368 parking spaces, which was granted by former Zoning Commissioner S. Eric DiNenna in prior Case No. 79-125-X, to be carried forward. However, I dismissed the additional variance relief requested, due to the fact that the movie theater operation was being significantly reduced. The Developer now wishes to eliminate the theater use in its entirety and utilize that space originally set aside for movie theaters as retail space. Thus, an additional variance of 130 parking spaces is being requested.

Following receipt of the request for modification, a meeting was held in the Zoning Commissioner's Conference Room with Mr. Gontrum, Counsel for the Owner/Developer, Mr. John V. Murphy, attorney for Citizens Against Marketplace Movies (CAMP), Mr. Michael Sarkin, President of CAMP, and this Deputy Zoning Commissioner. The modification requested was discussed with all parties present and a formal response was submitted to this Office by CAMP dated January 17, 1996.

Pursuant to the request for modification filed by the Owner/Developer, the appropriate response filed by CAMP, and the discussions held between all parties to this request, I believe it is appropriate to amend my decision dated November 9, 1995.

It was contemplated by me in my Order of November 9, 1995, specifically, Pages 41 and 42 thereof, that should the Developer abandon the theater operation in its entirety, a parking variance would then be necessary. However, not knowing at that time how the Developer would utilize

that space in lieu of the movie theater operation, it was not necessary to rule upon the request for variance. The Developer has since decided to use the space previously attributable to movie theaters as retail space, and thus, a parking variance is necessary.

As stated in my previous decision on Page 41, I noted that the Developer had sacrificed approximately 130 parking spaces in order to provide the required landscaping, pursuant to the landscape plan submitted into evidence at the hearing on this matter. Inasmuch as the required landscaping will result in a loss of 130 parking spaces to the Developer, I believe it is appropriate to grant the requested variance.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented at the hearing, and the requested modification set forth above, it is clear that practical difficulty or unreasonable hardship will result if

the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare, and is in strict harmony with the spirit and intent of the B.C.Z.R.

The variance request for 130 parking spaces was initially opposed by CAMM in its letter dated January 17, 1996. This opposition was centered around calculations dealing with the amount of amenity open space that was being provided on this site. However, by letter dated February 5, 1996, CAMM revised its earlier position and now does not oppose the variance for 130 spaces. Therefore, the variance shall be granted.

It should also be noted that subsequent to the issuance of my Order dated November 9, 1995, I was visited by Mr. Philip Guntner, a resident of Loch Raven Village. Mr. Guntner has also requested a modification of my Order and I will include his request as a part of the Motion for Reconsideration filed by the Owner/Developer. Specifically, Mr. Guntner requested that the existing sidewalk along Putty Hill Avenue be extended the entire length of Putty Hill Avenue to Goucher Boulevard. Currently, the sidewalk along Putty Hill Avenue terminates at the entrance to Towson Marketplace. Mr. Guntner stated that he utilizes the bus service in this area and finds it difficult to get to the bus stop at Goucher Boulevard and Putty Hill Avenue due to the fact that no sidewalk is provided in the aforementioned area. Mr. Guntner, who is legally blind, stated that his seeing eye dog will not allow him to walk on unpaved areas, and thus, he

must walk through the parking lot at Towson Marketplace to get to the bus stop. Therefore, as part of Counsel's request for modification, I shall include Mr. Guntner's request and shall require the Developer to extend the sidewalk along Putty Hill Avenue to Goucher Boulevard. It should be noted that the development plan submitted with the request for modification filed by the Developer showed the sidewalk relative to Mr. Guntner's request. Thus, it shall be the responsibility of the Developer to install the sidewalk during the construction phase of the redevelopment of Towson Marketplace.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 22<sup>nd</sup> day of February, 1996 that the Order issued November 9, 1995 be and the same is hereby AMENDED as follows:

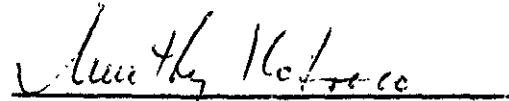
1) Restriction No. 1 which relates to the level of security that the Developer is to provide at Towson Marketplace shall be eliminated in its entirety. It shall be within the discretion of the Developer and the Manager of the Towson Marketplace to provide the level of security that they feel is necessary to provide a safe shopping environment for their patrons.

2) Restriction No. 10 which addresses arcades, game-rooms, virtual reality type uses, or other similar establishments, shall be eliminated. The Developer shall be bound by the applicable provisions of the B.C.Z.R. as to whether arcades, game-rooms, virtual reality type uses, or other similar businesses, shall be permitted to be located within Towson Marketplace. This may involve a future public hearing should the Developer wish to locate an arcade on the subject site; however, as of this date, no arcade is proposed to be located within Towson Marketplace.

IT IS FURTHER ORDERED that the special exception previously granted to allow a six-screen movie theater operation with a 1500-seat capacity, shall cease, terminate and be rescinded thirty-five (35) days from the date of this Order. In the event that this decision is appealed, then the issue of whether movie theaters shall be permitted at Towson

Marketplace shall be decided by the Board of Appeals. If no appeal is filed within thirty (30) days from the date of this Order, then the six-screen movie operation granted by my Order shall be rescinded on the thirty-fifth (35th) day and there shall be no movie theaters whatsoever at Towson Marketplace.

IT IS FURTHER ORDERED that all other conditions and restrictions of the Order issued November 9, 1995 shall remain in full force and effect.

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs



Baltimore County  
Zoning Commissioner  
Office of Planning and Zoning

Suite 112, Courthouse  
400 Washington Avenue  
Towson, Maryland 21204  
(410) 887-4386

February 22, 1996

John B. Gontrum, Esquire  
814 Eastern Boulevard  
Baltimore, Maryland 21221

RE: MOTION FOR RECONSIDERATION - DEVELOPMENT PLAN HEARING AND PETITIONS  
FOR SPECIAL EXCEPTION & VARIANCE FOR TOWSON MARKETPLACE  
Talisman-Towson Partnership, LLC - Owner/Developer  
Case Nos. IX-386 and 96-95-XA

Dear Mr. Gontrum:

Enclosed please find a copy of the Amended Order in the above-captioned matter. The relief requested within the Motion for Reconsideration has been approved, in accordance with the Order attached hereto.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy Kotroco".

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Mr. James Schlesinger, Talisman-Towson Partnership, LLC  
1500 San Remo Avenue, Suite 185-A, Coral Gables, Fla. 33146

John V. Murphy, Esquire, 14 N. Rolling Road, Baltimore, Md. 21228

Mr. Douglas L. Kennedy, KCW Consultants, Inc.  
3104 Timanus Lane, Baltimore, Md. 21244

Mr. Geoff Glazer, Kann & Assoc., 207 E. Redwood St., Baltimore, 21202  
Ms. Sally Malena, Human & Rohde, 110 E. Pennsylv. Ave., Towson, 21286

Mr. & Mrs. Michael Sarkin, 1308 Putty Hill Ave., Baltimore, Md. 21286  
Mr. Wayne Skinner, 1813 Edgewood Road, Baltimore, Md. 21234  
Bro. Kevin Strong, Calvert Hall, 8102 Lasalle Road, Baltimore, 21286

David Flowers, Proj. Mgr., PDM; People's Counsel; DEPRM; DPW; File

11/9/95  
IN RE: DEVELOPMENT PLAN HEARING AND \* BEFORE THE  
PETITIONS FOR SPECIAL EXCEPTION and \*  
VARIANCE for Towson Marketplace \* DEPUTY ZONING COMMISSIONER  
S/S Joppa Road, E of Goucher Blvd.  
9th Election District \* OF BALTIMORE COUNTY  
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\* Case Nos. IX-386 and 96-95-XA  
Talisman-Towson Partnership, LLC  
Owner/Developer \*

\* \* \* \* \*

HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer for consideration of a development plan prepared by KCW Consultants, Inc., for the proposed redevelopment of the subject property, known as the Towson Marketplace, by Talisman-Towson Partnership LLC, Owner/Developer, with a combination retail shopping center and movie theaters, in accordance with the development plan submitted into evidence as Developer's Exhibit 6A. The subject property consists of 43.1 acres, split zoned B.L.-C.C.C.; B.M., M.L.-I.M., and D.R. 10.5, and is located on the northeast corner of Putty Hill Avenue and Goucher Boulevard in Towson. In addition to development plan approval, the Applicant seeks a special exception to permit movie theaters to be located within the existing complex, and a variance from Section 409.6A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 3,000 parking spaces in lieu of the required 3,357 spaces for the proposed retail and movie theater use.

It should be noted that at the onset of the hearings on this matter, the variance for parking had changed by virtue of modifications to the development plan. Specifically, the parking calculations and the variance requested changed from that originally requested on the Petition for Variance. The Applicant is requesting a variance to allow a deficiency of 357 parking spaces at this time and to incorporate the previously approved

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parking variance in prior Case No. 77-230-XA of 368 parking spaces which was granted by then Zoning Commissioner S. Eric DiNenna. The Applicant's site plan states that the required amount of parking for this retail center with the proposed theater use would amount to 3,292 parking spaces. The Applicant proposes to provide 2,935 parking spaces and thus, a variance of 357 spaces is necessary, assuming that the previously approved parking variance would continue and apply to this project.

Appearing at the public hearing required for this project were James Schlesinger, a representative of the Talisman-Towson Partnership, LLC, Owner/Developer of the subject property, and John B. Gontrum, Esquire, attorney for the Owner/Developer. Numerous representatives of the various Baltimore County reviewing agencies attended the hearing, as well as many other witnesses who appeared in support of the plan and requested relief, all of whom signed the respective Sign-In Sheets. Lastly, many residents of the surrounding communities appeared, either as interested parties or as Protestants to this project, all of whom signed the respective Sign-In Sheets which were circulated over the course of this four-day hearing. Many of the Protestants who formed a coalition named Citizens Against Movies at the Marketplace (CAMP), which was specifically organized to monitor this project, appeared and were represented by John Murphy, Esquire.

As to the history of this project, the concept plan conference for this development was conducted on May 1, 1995. As required, a community input meeting was held on May 22, 1995 at the Loch Raven Senior High School. Subsequently, a development plan was submitted and a conference held thereon on September 27, 1995. Following the submission of that plan, development plan comments were submitted by the appropriate agencies of Baltimore County and a revised development plan incorporating these

comments and bearing a revision date of October 10, 1995 was submitted at the hearings held before me originating on October 17, 1995.

At the preliminary stage of the first day of this hearing, I attempted to determine what issues, if any, remained unresolved at that time. Numerous issues were raised by the citizens who attended the hearing, all of which will be dealt with in the body of this Order. Furthermore, it was decided at the hearing that the Owner/Developer would proceed concurrently with the presentation of his case as to development plan approval and the Petitions for Special Exception and Variance. Therefore, the testimony and evidence received applied to all three requests.

The testimony and evidence offered at the hearing both in support of and in opposition to the proposed development was voluminous. This Order will attempt to summarize the testimony and evidence presented over the course of this four-day hearing. For a more detailed account, any interested person may review the 14 cassette tapes which recorded the testimony taken over those four days. Those tapes are identified as Tape Nos. 16-26 and Tape Nos. 191-193.

The first witness called upon to testify on behalf of the redevelopment of Towson Marketplace was Mr. Douglas Kennedy. Mr. Kennedy is a registered professional engineer who prepared the site plan and drawings depicting the proposed redevelopment of this site. Mr. Kennedy was accepted as an expert in his field. Several exhibits were offered into evidence through Mr. Kennedy, namely, Developer's Exhibit 1, an aerial photograph of the Towson Marketplace and surrounding communities as they currently exist; Developer's Exhibit 2, three aerial photographs which were taken from an airplane flying over the subject site depicting the area of the retail complex and the surrounding communities; Developer's Exhibit 3, a

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200-scale zoning map of the subject property; Developer's Exhibit 4, which showed existing conditions on the site prepared by Mr. Kennedy; the Concept Plan which was presented at the Community Input Meeting (CIM) was entered as Developer's Exhibit 5; Developer's Exhibit 6 was offered by Mr. Kennedy and constituted a two-part exhibit, namely, Developer's Exhibit 6A being the actual development plan for which approval is being sought, and Developer's Exhibit 6B being that same development plan, but showing an alternative parking garage

Testimony offered by Mr. Kennedy demonstrated that the area which is the subject of this request consists of 43.1 acres of land, 42.0 acres of which is zoned B.L.-C.C.C., 0.35 acres are zoned B.M., 0.51 acres are zoned M.L.-I.M., and 0.06 acres are zoned D.R. 10.5. Mr. Kennedy testified that Towson Marketplace is serviced by four public roads, those being Goucher Boulevard, Joppa Road, Putty Hill Avenue and Prince Road. He also testified that the subject site is serviced by three MTA bus stops. He described the adjacent uses to this site, those being the Maryland Business Park located east of the subject property, Calvert Hall High School, located south of the subject site across Putty Hill Avenue, Prince Road, located immediately west of the subject site, and Joppa Road, located north of the subject site. Mr. Kennedy testified that the B.M. zoned portion of the site, as shown on the site plan, was specifically added to allow the operation of Martin's Eudowood, a catering hall facility.

Mr. Kennedy testified as to the physical changes the Developer proposes to the subject property. He stated that the Developer will attempt to enclose the "nooks and crannies" that exist on the subject site. Mr. Kennedy explained that Towson Marketplace was developed in a haphazard manner over the past 40 years and that many areas of the subject property

were not uniformly developed. The Developer proposes to correct this situation by enclosing the gaps that presently exist within the existing facility and bringing some conformity to the center. Furthermore, the Developer proposes to do away with the "mall" concept, thereby eliminating access to the new facility from Best Products, Montgomery Wards, Marshalls, and any other store that once permitted access into the interior of the mall.

The total gross building area on the subject site consists of 692,000 sq.ft., and is broken down in the following manner. The gross leasable area for retail space constitutes 605,000 sq.ft.; the theater operation proposed for this site constitutes 72,000 sq.ft., and the common areas within the proposed facility constitute 15,000 sq.ft., all of which total the 692,000 sq.ft. of gross building area. It appears from the red-lined corrections to the development plan that the Owner/Developer has reduced the gross leasable area of the subject site from 692,000 sq.ft. to 592,000 sq.ft. This reduction was apparently undertaken to reduce the amount of parking that would be required, based upon the amount of square footage to be utilized for retail space.

Mr. Kennedy also testified as to the special exception and variances requests, as well as the parking calculations he performed pursuant to that request, the relocation of the automotive service area for Montgomery Wards, and the Martin's Eudowood catering operation.

On cross-examination, Mr. Kennedy testified that the alternative parking garage depicted on Developer's Exhibit 6B would satisfy all of the parking requirements generated by the uses proposed within the redevelopment of this property, for so long as the Developer would be permitted to carry over the previously granted parking variance in Case No. 77-237-XA

of 368 parking spaces. Mr. Kennedy stated that assuming the variance is carried over to the redevelopment of this site, the Developer would meet all parking requirements in the event the proposed parking garage alternative was approved. Also revealed during cross-examination was the manner in which Baltimore County calculates parking for theater complexes. Mr. Kennedy stressed that the Developer did not propose the parking calculations set forth on the plan. They are a requirement that Baltimore County utilizes and it is a mathematical equation that results in the requirement of 700 parking spaces for the proposed 3500-seat theater complex.

Also testifying on behalf of the development plan was Mr. Geoff Glazer, a registered architect in the state of Maryland. Mr. Glazer has specialized in the redevelopment of distressed real estate and was hired to redesign Towson Marketplace. Mr. Glazer prepared and submitted into evidence several exhibits showing the redesign of the Towson Marketplace facade and the improvements that would be made by the Developer should the plan be approved. Mr. Glazer was also involved in locating the entrances to the theater complex in the center of this retail facility. Mr. Glazer testified that the entrances and exits to the theater area would be located in the area of the site that generates the most amount of parking for patrons. Those areas are shown on Developer's Exhibit 6A, the development plan for this project. In the opinion of this Deputy Zoning Commissioner, Mr. Glazer did an excellent job in redesigning Towson Marketplace as evidenced by the elevation drawings he submitted.

On cross-examination, Mr. Glazer testified that while the parking garage proposed on Developer's Exhibit 6B will satisfy parking regulations, he believes it will be the last place that shoppers will park. He believes that the added inconvenience of parking within a garage and either taking

an elevator or steps to ground level will persuade shoppers to park in other areas on the site than parking within the proposed garage.

Next called to testify on behalf of the Developer was Ms. Sally Malena, a landscape architect with Human and Rhode. Ms. Malena prepared and submitted the landscape plan for this project, which was entered into evidence as Developer's Exhibit 13. Ms. Malena testified that the subject property is not required to be landscaped, pursuant to the Landscape Manual. However, this Developer in furtherance of the redevelopment of this site, proposes to attractively landscape those areas of the site which are currently deficient in landscaping. Ms. Malena stressed that this was purely a voluntary effort on the part of the Developer to make the site more attractive and appealing to the general public.

On cross-examination, Ms. Malena stated that she did not take into account any landscaping around the proposed alternative parking garage in that when she prepared the landscaping plan, the parking garage alternative was not proposed. She stated that she would redesign her landscape plan in the event the parking garage alternative was approved.

Mr. Larry Hicks, founder of "Off-Duty Police" security guard agency, testified concerning the security measures that are proposed for the subject site. Mr. Hicks prepared an extensive security plan for the subject property and presented that plan on a poster board which was accepted into evidence as Developer's Exhibit 16. Mr. Hick's security plan is state-of-the-art. He utilizes six remote cameras which would be installed at strategic points of the Towson Marketplace facility. These cameras would allow Mr. Hicks to have visual access to all exterior portions of the proposed complex. The cameras would feed into a central command unit located within Towson Marketplace, whereby a security guard

would monitor all areas of the parking lot. Furthermore, Mr. Hicks testified that a roving patrol would monitor the exterior of the buildings and parking lot areas and would be manned by one security guard. He further projects that three security guards would be located within the interior of the complex to provide security for shoppers and theater-goers.

Mr. Hicks testified that the outside patrol would be in operation 24-hours a day, seven days a week. Furthermore, he was consulted as to the lighting plan for the parking lot areas, said plan being entered into evidence as Developer's Exhibit 12. Once again, the lighting plan for the subject property is extensive and Mr. Hicks stated it would be the number one deterrent to crime occurring on the parking areas of the subject site.

On cross-examination, Mr. Hicks testified that he was not able to provide security measures for the proposed parking garage in that it was not contemplated to be added to the site at the time he prepared his security analysis. Therefore, he would have to study the garage to determine appropriate security measures for the garage.

Officer Fred Carter, the community outreach officer for the Baltimore County Police, appeared and testified on behalf of the development plan. Officer Carter has been working in the Towson community for the past 9 and 1/2 years. Officer Carter testified that he does not believe movie theaters are the types of uses that are a magnet for crime. He believes that most crime is generated by virtue of the retail uses contained within a shopping complex. He does not believe that the 16 movie theaters proposed for this location would create a major impact on the instances of crime at Towson Marketplace. Officer Carter also complimented the Developer and Mr. Hicks on the extensive and thorough security plan that is proposed for this site. Officer Carter testified that no other

shopping center he has ever encountered has proposed the level of security proposed by this Developer.

Officer Carter was also asked to testify concerning other problem areas around Towson Marketplace. Testimony was offered by Officer Carter regarding the Skateland operation which does cause some concern to the Baltimore County Police as well as area residents on Fridays and Saturday nights. Furthermore, Mr. Carter testified concerning the congregating and loitering of young people at the Towson Commons shopping complex on York Road. However, Officer Carter does not believe that the proposed movie complex will attract juveniles in that the movies are too expensive for young people to patronize. Officer Carter believes that the \$5 - \$7 admission charge would just be too expensive for these young people. He also believes that the shopping center as it presently exists with a high vacancy rate, will create more of a threat and become more of a security hazard to the surrounding communities than if it were to become fully operational.

Next called upon to testify on behalf of the proposed redevelopment of Towson Marketplace was Mr. Richard King, Senior Vice President for American Multi Cinema, hereinafter referred to as AMC. Mr. King represents his company in the northeast portion of the United States. AMC is in the business of owning, operating and building movie theater complexes all over the United States and they are currently the third largest operator of movie theaters in the country. Mr. King testified that he and his company would be responsible for operating the 16 movie theaters proposed for Towson Marketplace. Mr. King testified concerning the market study his company prepared to determine whether the Towson Marketplace would be a viable location for 16 movie theaters. He believes that the site will certainly support 16 movie screens, even taking into account the 8 screens

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at Towson Commons, located further down the road. Mr. King is so certain that this will be a successful operation that he and his company intend to invest \$3 million in furtherance of the design and construction of these 16-movie screen, 3500-seat theater complex.

Mr. King testified that the theater complexes of the future will consist of 16 - 24 movie screens and a seating capacity of 5,000. He testified that these are the types of multi-cinema prototypes that his company is building elsewhere in the country. However, Mr. King stated that this particular 16-screen, 3500-seat operation proposed for this site would be the largest cinema operation on the entire East Coast. He does not believe that there is one larger in existence anywhere in his region. Mr. King also testified as to the capacity at which he believes this theater complex will operate. He testified that at times his theater operation can achieve an 80% - 85% capacity on their busiest days and times of the year. He further testified that a more accurate capacity figure for year-round calculation would be somewhere between 50 - 65% capacity. Mr. King also testified that his company proposes to show midnight movies. These movies would start anywhere from 11:00 PM up to and as late as 12:30 AM. These movies would therefore end, depending on the actual length of each movie, somewhere in the neighborhood of 1:00 AM to 3:00 AM. Mr. King testified that some of the distributors of movies require that midnight runs be offered by the various movie operators. He stated that while it is not mandatory to show midnight runs, it certainly is a preference within the movie industry.

On cross-examination, Mr. King was asked to give examples of other types of retail uses that typically associate with movie theater operations. Mr. King identified casual dining establishments, game rooms

and virtual reality-type uses, book stores, record and tape establishments, ice cream stores, and other similar types of uses which might feed off of movie theater patronage. Mr. King explained the staggering effect of movie times which, in his opinion, will cause people to leave the theater complex at variable times so that there is not a tremendous influx of traffic or pedestrians at any one time. Mr. King also testified about the clean-up time between the end of a movie and the start of the next movie. He testified that usually 30 to 40 minutes are allocated between shows so that his employees can clean the theater prior to the next show.

Mr. King committed himself and his company to showing only first-run movies. He testified that his company would be willing to be bound by a restriction to only show first-run movies, as well as the proffer made by Mr. Gontrum on behalf of the Developer that they would comply with the conditions and restrictions imposed by the Office of Planning and Zoning (OPZ) in their comments as to the theater operation.

Next called to testify on behalf of the Petitioner was Mr. Wes Guckert, President of The Traffic Group, Inc., who was accepted as an expert traffic engineer in this case. Mr. Guckert testified regarding the roads that service Towson Marketplace. He testified that Joppa Road, Putty Hill Road and Goucher Boulevard are major arterial roads in that they basically crisscross much of the northeast side of Baltimore County. Mr. Guckert offered considerable testimony as to the amount of vehicle trips generated by the shopping center as it presently exists as compared with that which might be generated once the center is redeveloped as proposed. Mr. Guckert was the first witness to bring to our attention the terms "power center" and "big box users". The term "power center" is used by Mr. Guckert merely to denote an assembly of larger retail uses at one

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location. The use of that term was not intended to send a message to the surrounding communities that this would be the type of regional shopping center such as the Owings Mills or White Marsh malls. It was simply a term used by Mr. Guckert to explain that, as opposed to this operation being a mall, it would simply be an establishment of large retail uses, operating independently and unconnected to one another. These large retail uses were termed by Mr. Guckert to be "big box users". The concept of "big box users" was important in Mr. Guckert's assessment of the parking and traffic that will be generated by the proposed redevelopment of Towson Marketplace. He identified a "big box user" as, for example, the Best Products store which is currently on the property. According to Mr. Guckert, "big box users" inherently utilize much of the square footage attributable to them for storage purposes. It is necessary for such "big box users" to keep a large inventory on the premises in order to satisfy customer demand. Therefore, much of the space associated with these "big box users" is actually storage space. Mr. Guckert made it a point to emphasize that storage space does not generate the same amount of traffic as the actual retail space that a store is permitted to utilize. Mr. Guckert testified that the Towson Marketplace operation will not be a true retail operation such as Towsontown Center. Mr. Guckert testified that many of the stores located in the Towsontown Center will attempt to utilize every single foot of space for the display and sale of merchandise. That in effect would yield the best return to the tenant for the amount of square footage they are renting. However, with "big box users" as stated above, much of the area is utilized for storage. Therefore, Mr. Guckert concludes, and his theory has been published in the Institute of Transportation Engineers Treatises, that the parking requirements dictated by the B.C.Z.R. do not

take into account the fact that "big box users" have a larger percentage of storage space contained within their square footage as opposed to pure retail space. Therefore, he believes the parking requirements imposed by the B.C.Z.R. are excessive for the actual use proposed for this site.

Based on the extensive testimony offered by Mr. Guckert, it was his expert opinion that the proposed redevelopment of Towson Marketplace, taking into account the proposed retail space in conjunction with the special exception for movie theaters, would not have an adverse effect upon the roads, streets, and alleys of the surrounding communities. He testified that the entrances to and from the site, as well as the level of operation of the surrounding intersections, are all sufficient to handle any and all additional traffic that will be generated by the redevelopment of this site.

At the close of Mr. Guckert's testimony, the Developer rested its case and the Protestants then proceeded to offer testimony and evidence in opposition to the redevelopment of this site as proposed.

First called upon to testify by Mr. John Murphy, the attorney representing the Protestants, was Mr. Michael Sarkin. Mr. Sarkin is a computer analyst by trade; however, he is the founding President of Citizens Against Movies at the Marketplace (CAMP). Mr. Sarkin testified that when he first learned that a developer was proposing to redevelop Towson Marketplace, he was extremely happy. He believes, as do all of those in attendance, that the Towson Marketplace is in dire need of renovation. Mr. Sarkin was distressed, however, to learn that the Developer was proposing a 16-screen, 3500-seat movie theater complex as part of its redevelopment plan. Mr. Sarkin testified that he was not opposed when he first heard of the concept of movie theaters going into the site. However; when he dis-

covered the magnitude of the operation, he decided that such an operation would be totally inappropriate and thus, organized and motivated many citizens in the surrounding area to form CAMM.

Mr. Sarkin resides in Loch Raven Village at 1308 Putty Hill Avenue, which is the third house from the southeast corner of the subject site. Mr. Sarkin is extremely concerned about the multi-theater operation proposed for this property. One of the exits from the proposed movie theater complex is located on the side of the property facing his community. Mr. Sarkin is concerned over late night traffic leaving the site after attending the midnight movies as well as the additional vehicular traffic that will be generated by virtue of this movie theater complex. He fears that the theater complex itself will be an attraction for young adults to congregate such as they do at Towson Commons and the Skateland operation as was previously discussed. He is concerned that movie patrons leaving the parking lot late at night after seeing an action-type movie, may tend to play their car stereos in a loud fashion, or be somewhat excited, rowdy, or "fired-up" once leaving an action type movie. He believes that those patrons who leave the site via Putty Hill Avenue, which is the obvious exit from the site for those vehicles parked on the southeastern portion of the property, would then traverse through his neighborhood during the late hours of the evening and thus, would have an adverse effect upon the residents who live in that community.

Mr. Sarkin is vehemently opposed to the Developer locating the largest movie theater complex in the State of Maryland in the center of the many residential communities which surround this site. Not only Loch Raven Village, but also the communities of Towson Estates, Courthouse

Square, Calvert Hall College, Knettishall, Fellowship Forest, Greenbrier, and other surrounding neighborhoods.

Mr. Sarkin is vehemently opposed to the proposed parking garage for aesthetic and security reasons, and the fact that the parking garage will interfere with the traffic flow in that area of the site. Mr. Sarkin also objected to the parking garage being proposed at this late hour. He testified that the parking garage was never presented at the Community Input Meeting (CIM), or on any plan that he had seen prior to the hearing. Mr. Sarkin presented to this Hearing Officer as Protestant's Exhibits 11 and 12, a Petition signed by many residents of the surrounding communities previously mentioned, all of whom are opposed to the construction and operation of 16 movie theaters within the Towson Marketplace. Mr. Sarkin testified that he and the numerous volunteers who joined with him were able to obtain the many signatures on the Petition. Never in my tenure as Deputy Zoning Commissioner and Hearing Officer for Baltimore County have I seen such evidence of opposition to a particular use on any previous case that I have heard.

Next called to testify in opposition to the Developer's request was Ms. Camille Woodall. Ms. Woodall is a resident of Towson Estates, which is the community located on the north side of Joppa Road, adjacent to this site. Ms. Woodall has lived in Towson Estates for the past 11 years and holds a PhD in Psychology. She specializes in treating families, marriages, and children in her practice. It was also noted by this Hearing Officer that Ms. Woodall was recently published in the latest edition of Baltimore Magazine in the "Letters" section. Ms. Woodall testified as to the amount of crime that currently exists in this area of Baltimore County. She testified as to her personal experiences as a victim of

crime, particularly an incident that occurred on Joppa Road, and an incident that occurred in her own back yard. She is very much concerned over the proposed multi-cinema movie complex, as well as other uses, such as arcades or game rooms, which might be associated with the theater use. She believes these types of uses have an adverse effect on children and offer limited remedial and academic benefits to young people. She also is concerned over the additional traffic and noise that might be generated by the proposed use, especially in the late hours of the evening.

Next to testify was Ms. Joanne Beck, who resides at 1509 Dellsway Road in Loch Raven Village. Ms. Beck objects to another movie theater complex in the Towson area. She believes, taking into consideration the existence of Towson Commons, that there are enough movie facilities in the area. She believes that children need recreational and exercise facilities as opposed to movie theaters.

Mr. David Nielson, who resides at 8141 Pleasant Plains Road, testified in opposition to the proposed theater use. He testified that his family has lived in Loch Raven Village for the past 45 years. He stated that he and his wife along with their small son are second generation Loch Raven Village residents. Mr. Nielson testified that at first, he favored the redevelopment of Towson Marketplace until he was advised of the proposed 16-screen movie theater complex. He believes that such a use is strongly incompatible with the surrounding communities, particularly in the late evening.

Ms. Shirley Carl, who resides at 513 Brook Road in the Greenbrier community, also opposes the movies. She has been a resident of this community for 24 years and is opposed to movies in general due to the sexual and violent nature of many of the movies today. She testified that five

of the eight movies currently showing at Towson Commons are "R" rated and therefore, she is opposed to movies based on the subject matter of the movies themselves.

Mr. Donald Vovakes, another resident of Towson Estates, testified in opposition to the movie theater request. Mr. Vovakes testified that he objects to the Developer carrying over the previously granted variance of 368 parking spaces from the 1977 case heard by then Zoning Commissioner S. Eric DiNenna. Mr. Vovakes believes that the parking calculations utilized in 1977 are not the same as those used today. Therefore, the value of 368 parking spaces does not translate into 368 parking spaces under today's standards. He believes it is not a one for one calculation.

Mr. Vovakes also attacked the Amenity Open Space (AOS) calculations that appear on the development plan. He stated that the Developer did not take into account the area of the proposed parking garage when calculating for amenity open space. Plus, the Developer failed to calculate the square footage of each and every parking island and other traffic directional devices on the site into the AOS calculations. Therefore, he believes these calculations to be inaccurate.

Ms. Peggy Hohman, who resides at 1545 Putty Hill Avenue, also testified in opposition to the movie theater request. She is concerned that the 700 parking spaces that were required for the theater use are not an accurate representation of what will actually be used in connection with a 16-screen, 3500-seat movie complex. Ms. Hohman testified that she, as well as members of her community, performed an actual study of parking at theater complexes in the surrounding area. The purpose of their study was to attempt to determine the number of occupants per car of those people arriving at the movies. They studied the Timonium, Senator, and Perry



Hall theaters, the results of which demonstrated that on average, 2.25 persons will occupy one car when going to the movies. This calculation differs slightly from the figure arrived at by the Developer. Ms. Hohman testified that given the fact that their study showed the actual average was somewhat less than 2.5 persons per car, as testified to by the Developer's witnesses, the proposed 16-theater complex would generate more parking than what was previously testified to by the Developer.

Ms. Hohman also voiced other concerns as to the theater complex being a hang-out for teenagers. She also noted Towson Commons as having a problem with teenagers hanging out on Friday and Saturday evenings. Ms. Hohman testified that she is intimidated by the appearance of the young adults that currently congregate at Towson Commons on the weekend evenings. She is also concerned that rush hour traffic on Friday evenings would interfere with individuals attempting to go to the movies at Towson Marketplace and that they may overlap one another. While she realizes the mall has deteriorated and would like to see it upgraded, she does not want the theater use to be permitted.

Next called to testify by the Protestants was Dr. Robert Williams, an Orthodontist, who has resided on Stevenson Lane in the community known as Fellowship Forest since 1977. Dr. Williams testified concerning the amount of traffic that currently uses Stevenson Lane in his neighborhood. He believes that this development will exacerbate the traffic conditions that he and his neighbors currently experience along Hillen Avenue and Stevenson Lane.

Ms. Gretchen Sarkin, who resides at 1308 Putty Hill Avenue, testified concerning the amount of excessive trash which is presently generated by Towson Marketplace. She testified that she walks her dogs at 6:30 AM

every morning and is constantly picking up trash that has blown into her community along the perimeter of the Towson Marketplace property. Ms. Sarkin stated that she has made repeated requests of the owners of the Towson Marketplace to assist the community in keeping the area clean. She offered as Protestant's Exhibit 15 a photo montage of the Towson Marketplace and surrounding area showing the different types of trash she encounters when walking around the neighborhood. Ms. Sarkin also testified concerning the noise she believes will be generated by late night movies. She testified that at the present time during late night hours, the neighborhood is quiet and peaceful. She is fearful that the proposed showing of late night movies will interfere with the peacefulness they currently enjoy. Ms. Sarkin also testified that she believes the Developer should provide a buffer of some type between the parking lot on the southeast corner of the subject property and her community.

Mr. Lawrence Vincent, an attorney who resides on Miami Road in Loch Raven Village, also testified in opposition to the proposed redevelopment of Towson Marketplace. He believes the redevelopment of this site, particularly the installation of movies, will attract undesirable individuals to the center and cause them to congregate therein. He also believes these individuals will walk through the community once they are prepared to leave the area. Mr. Vincent offered testimony about the bus lines and times of pick up at various bus stops in the area. He testified as to the adverse effects he personally feels as a result of the operation of the Skateland facility further down the road. Mr. Vincent feels that another Skateland situation will be created by virtue of the movie theater complex proposed for this site.

Mr. Matthew Collison, a graduate of Calvert Hall who resides in Towson Estates, was next called to testify by the Protestants. Mr. Collison is also opposed to the proposed movie theater complex in that he feels it will detract from the residential character of his neighborhood, that being Towson Estates. He is opposed to any type of "power center" being developed at this location and any type of regional movies locating therein. Mr. Collison stated that he moved back to the Towson area with his family due to the residential character of the communities. He believes the proposed development will destroy that residential character.

Ms. Emily Pierce, who resides at 1400 Putty Hill Avenue, testified as to her concerns relative to the redevelopment of the subject property. Ms. Pierce related a specific incident which occurred within the Montgomery Wards store in the center of the shopping center within the past year or so. She testified that as a result of a gunman who was located within the Montgomery Wards store, she was told by police officers to lock up her house and not come outside until the situation was resolved. She fears that the redevelopment of this center will cause such situations to increase and fears that the alley behind her home on Putty Hill Avenue, would be utilized as a pedestrian thoroughfare. She is concerned that late night movies would contribute to crime and other undesirable occurrences happening in the late hours of the evening.

Mr. Howard Heist and Mr. Milton Webster, both long-time residents of the surrounding community, testified in opposition to the plan. Both gentlemen are vehemently opposed to any movies being located within the Towson Marketplace and believe that the addition of movies at this location is a bad idea, given the tremendous community opposition to such an operation.

Ms. Shirley Yeakle, a resident of the surrounding community, testified that while she would like to see the Towson Marketplace become profitable and successful, she is vehemently against late night movies. She believes the operation of late night movies which has caused so much concern to the surrounding communities is not worth the limited amount of revenue that is generated by such use. Ms. Yeakle recounted the testimony presented by Mr. King that he would only be operating at approximately 20% capacity during the showing of late night movies. She believes that this 20% in gross revenues is not worth the aggravation that these movies will cause to the surrounding residents and cannot understand why AMC would wish to offer them, given this opposition.

Ms. Kim Carton, a resident of the surrounding community who resides at 1420 Putty Hill Avenue, is also opposed to the operation of movie theaters. Ms. Carton grew up in Loch Raven Village and has been involved in this project since its inception. She testified that she fully supports the redevelopment of this site as a retail operation, but is vehemently opposed to any movies being on the property. Ms. Carton believes that the movies will draw too many people to the area and that individuals would use her street and the alley behind her home as a pedestrian thoroughfare to and from the site.

One of the members of the surrounding communities not previously heard from in the course of testimony was Calvert Hall College. On behalf of Calvert Hall College, its President, Brother Kevin Strong, appeared and testified. Brother Strong testified that Calvert Hall High School is 150 years old and that it moved to its present location in 1960. Brother Strong is concerned about the types and classification of movies that will be shown at the proposed complex. He believes that the theater complex

would be a temptation for students to attend, both during school hours, as well as at other times during the day. Brother Strong testified that his school services the many communities who appeared in opposition to the proposed redevelopment plan. He testified that any matter that concerns the communities that his school services is also a great concern to the college. He is concerned about increased late night pedestrian traffic coming onto school property by virtue of the showing of late night movies. He testified that the security force utilized by Calvert Hall at this time consists of himself and the other brothers who reside on the property. They do not have a professional security staff. He fears that increased pedestrian and traffic flow in the late hours of the evening would hamper their ability to self-patrol their property. Furthermore, Brother Strong is concerned that many long-time residents of the various stable communities around Calvert Hall and Towson Marketplace would put their houses on the market and leave the area. He believes a large movie complex such as that proposed herein would detract from the family-like atmosphere that currently exists in this particular area of Baltimore County.

Ms. Laura Friedman, a representative of the Courthouse Square Apartments, appeared and testified in opposition to the proposed movie operation. Ms. Friedman testified that she has lived in this area all of her life and currently resides in the Courthouse Square apartment complex, which is located directly across Goucher Boulevard from Towson Marketplace. Two of the apartment buildings of Courthouse Square are actually shown on the site plan entered into evidence as Protestants Exhibit 6A and 6B. Ms. Friedman testified that 45% of the tenants at Courthouse Square are elderly seniors. She testified that they have their own professional security

patrol at the Courthouse Square apartment complex. Ms. Friedman is very much concerned about the elderly residents of Courthouse Square and believes that the proposed movie theater complex will bring additional traffic and safety concerns for the residents of her apartment complex. Ms. Friedman believes something should be done to redevelop Towson Marketplace, but is definitely against the proposed movie theater complex.

Ms. Breon Gilleran, who resides at 500 Club Lane, testified against the operation of late night movies. She believes it is acceptable and she is willing to put up with traffic up until approximately 10 PM, but that additional late night traffic is not wanted by the residents, and will deteriorate the quality of life they currently enjoy. She is opposed to late night movies.

Mr. Joseph Carton, who resides at 1420 Putty Hill Avenue, offered testimony a bit different from that previously offered by other witnesses. The purpose of Mr. Carton testifying was to illustrate an overlapping effect that occurs when people attend movies. Mr. Carton testified that while the theaters are operating at peak capacity, which, according to Mr. King, would be 85%, there may be other movie-goers who are waiting in line to see the next shows. Therefore, he believes that there is an overlapping of people coming to the site, parking their cars, getting into line to buy tickets and waiting for movies to begin while the theaters are already occupied and operating at 85% capacity. Therefore, he believes that the number of people, both sitting in the theater at peak capacity, and those waiting to see movies that are preparing to start, is actually greater than that testified to by Mr. Guckert and Mr. King. Thus, Mr. Carton believes this "overlapping effect" should be considered when addressing the issue of parking.

Ms. Meg Davis, a resident of Towson Estates appeared out of concern for this project. She testified that she worries about the movie theater complex and the increase in traffic in the area, considering the many children that live in the surrounding communities. She testified that she has witnessed occasions when there has not been enough parking at the site, during times that the site has not been successful. She is concerned that parking will become a problem, assuming the redevelopment causes the Marketplace to be successful. Ms. Davis also testified that the many traffic directional signs located on Prince Road and Joppa Road are not obeyed by the motorists who use those roads.

Ms. Cynthia Mavrophilipos, who resides at 1568 Putty Hill Avenue, testified that she is opposed to the largest theater complex in the mid-Atlantic region being located at the Towson Marketplace, which is completely surrounded by residential communities. She believes it would be too late to correct the problem once the "deal" is done. She believes the Developer is putting profit over the sense of community that many of the residents in this area currently enjoy.

Mr. Wes Boor, who is the President of the Joppa-Loch Raven Business Association, testified in support of the redevelopment of the Towson Marketplace. The Business Association is concerned about vacancy rates, the appearance of store fronts, and crime in the area of Loch Raven. He believes the site in its present condition is poorly lighted and unattractive in appearance. Mr. Boor is also concerned about the high vacancy rate. He and many others who attended the hearing realize that more money needs to be invested into this complex to make it a viable retail shopping center. He testified that his business association fully supports the pro-

posed 16-movie theater project, as well as the 3500 seats associated with those screens.

Mr. Bill Emerick, a 37 year resident of Loch Raven Village, testified concerning his participation in monitoring this redevelopment project. Mr. Emerick personally gathered 500 signatures in the Loch Raven Village community and testified to the overwhelmingly negative attitude towards the proposed movie theater complex at Towson Marketplace. Mr. Emerick is strongly opposed to the location of movies at the subject site.

Mr. Leon and Ms. Lorraine Rozankowski also testified against the proposal to locate movies in the Towson Marketplace. They believe the redevelopment of this site including the movie theaters will detract from the current attempts by Baltimore County to preserve and enhance older neighborhoods. They also fear that this type of use will encourage young people to hang out and congregate at this location. Testimony also revealed that there is concern over these movie theaters being located in close proximity to Calvert Hall, Loch Raven Middle, Immaculate Heart and Pleasant Plains schools, all within walking distance of the subject site.

Mr. Wayne Skinner appeared in his individual capacity to testify concerning the proposed development. Mr. Skinner is a community activist who often appears at zoning hearings that involve the Joppa-Loch Raven area. Mr. Skinner believes that with appropriate restrictions and conditions imposed on this Developer, a theater complex would be appropriate at this location. Mr. Skinner went over a long list of restrictions he believes would allow the movie operation to exist without having a detrimental effect upon surrounding communities. Mr. Skinner further testified that a parking garage is inappropriate, not only for this site but in the area where it is proposed to be located. He is also concerned that the



proposed relocation of the entrance at Putty Hill Avenue, which would necessitate a curb cut in the median strip, would cause the community to lose trees that have been planted at that location. Mr. Skinner testified that these trees and improvements to the median area were done at the expense of the community and that by virtue of the relocation of that entrance, the Developer should be required to replace those trees.

Mr. Skinner was the last witness to testify from the community, however, the Developer wished to offer rebuttal testimony from two of its witnesses. Officer Carter returned to the stand to testify regarding crime statistics in Baltimore County around those areas where movie theaters are currently operating. It is still Officer Carter's opinion that movie theaters do not result in any increase in crime by virtue of their operation. Those crime statistics were entered into evidence as Developer's Exhibit 18.

The final witness to testify on rebuttal was Mr. Wes Guckert. Mr. Guckert was recalled to the stand to discuss and introduce a very specific and detailed traffic study that his firm recently completed which addressed many of the concerns raised by the citizens from the surrounding communities. Entered into evidence as Developer's Exhibits 19 and 20 was that specific study performed by The Traffic Group. Among other things, Mr. Guckert's rebuttal testimony and the aforementioned exhibits demonstrated that the types of uses at Towson Marketplace peak, not only during different times of the day and different days of the week, but also at different times of the year. This was fully explained and illustrated in the very extensive report prepared by Mr. Guckert. Mr. Guckert concluded his testimony and the Developer rested his case. There was no other testimony offered at that point.

As stated previously, the recounting of the testimony of the many witnesses who testified in this case is merely a summary. Reference is made to the 14 audio tapes that were recorded over the four full days of testimony concerning this redevelopment project. The greatest amount of testimony offered at the hearing centered around the effects of the proposed 16-screen, 3500-seat movie theater complex at Towson Marketplace. The theater operation certainly was the focal point of attack by the many citizens who appeared at the hearing, as well as the thousands of letters and signatures that appeared on various Petitions and correspondence. In addition, there were other issues raised at the hearing and throughout the testimony that must be addressed. Therefore, the following is a list of issues and the decision rendered on each.

Issue 1 - Parking Garage proposal: The first issue that I will address in this Order relates to the proposal to locate a parking garage, three-stories in height on one end, and two stories in height on the other, in the southeastern corner of the subject site. Many of the residents who appeared at the hearing strongly oppose the construction of a parking garage at this location. I will assume, but will not find, that the Developer is probably opposed to constructing this garage, given the tremendous cost involved in building same. However, in an attempt to show that parking demands can be met by virtue of this parking garage, the Developer proposes this alternative on the development plan submitted into evidence as Developer's Exhibit 6B, which is outlined in pink thereon.

Much of the testimony raised at the hearing concerning the parking garage was that it was a last minute addition to this proposal. Several citizens commented that the parking garage was first brought to their attention at the first hearing held before me on this matter. This is

corroborated by the fact that the landscaping plan marked as Developer's Exhibit 13, the lighting proposal marked as Developer's Exhibit 12, and the extensive security plan, marked as Developer's Exhibit 16, never accounted for a parking garage in the southeastern quadrant of this site. None of those Developer's Exhibits, nor the testimony of any of the witnesses who introduced those plans, took into account the fact that a parking garage was proposed in that area.

I believe that this additional proposal to locate a parking garage of the magnitude set forth on Developer's Exhibit 6B, is a substantial and material change to the original development plan marked as Developer's Exhibit 6A. Parking garages carry with them inherent problems, such as safety and aesthetic issues, as well as interference with traffic flow. Given these great concerns, proposing to locate the parking garage on the site at this eleventh hour is not acceptable and not in accordance with the development regulations contained within the Baltimore County Code. I believe that this issue is of such a magnitude to warrant that a second Community Input Meeting (CIM) be held should the Developer wish to pursue the construction of a parking garage on this site. Section 26-204 of the Baltimore County Code, Subsection B thereof, clearly states that if a development plan is inconsistent with the concept plan, and the revisions being made are not related to the outcome of the CIM, then that plan shall not be accepted for filing until a second CIM has been held concerning those revisions. I do not believe the construction of this garage was done at the insistence of the surrounding communities. Therefore, it was not done by virtue of the CIM which took place on May 22, 1995, and as such, I find that Developer's Exhibit 6B, which was offered as an alternative development plan, should be denied. In the event the Developer chooses

to construct this parking garage, a second CIM shall be held to address the number of concerns raised by the residents as to the parking garage itself. Once a second CIM is held, this matter could then proceed to a Hearing Officer's hearing.

As a result of denying Developer's Exhibit 6B, and thereby prohibiting the Developer from constructing a parking garage on the subject site at this time, and warranting that the matter be set back in for a second CIM, the issue involving the parking garage has now been resolved and attention is now turned to Developer's Exhibit 6A, the development plan showing the redevelopment of the subject site without a parking garage. Furthermore, by virtue of the denial of the development plan showing the parking garage, the Developer is forced to rely upon the variance request set forth in the Petition for Variance.

Issue 2 - Relocation of Montgomery Wards Automotive Service

Center: Another issue raised regarding the development plan marked as Developer's Exhibit 6A, concerns the relocation of the automotive service center for Montgomery Wards. The approval for that automotive service center was granted, pursuant to Case No. 79-125-X. That case specifically set aside a portion of the subject site which was to be utilized, pursuant to the special exception request, as an automotive service center. Pursuant to the proposed redevelopment of this site, the Developer wishes to relocate the service center for Montgomery Wards to the area colored in pink and marked "New TBA Wards". The issue that arises as a result of this proposed relocation is that the Developer failed to file a request for special exception to allow the automotive center to be relocated. The actual move is only some 50 - 75 feet in distance from its present location. The Developer proposes to abandon the old special exception use and

replace same with retail uses. Given the fact that a special exception has been requested pursuant to this hearing and all of the notification and community involvement regarding this plan, I believe it is appropriate for the Developer to relocate the automotive service center for Montgomery Wards to the area colored in pink on the development plan marked as Developer's Exhibit 6A. Therefore, pursuant to this Order, I shall grant a special exception for the automotive service operation to be relocated where shown on Developer's Exhibit 6A and marked as "New TBA Wards". The old site shall hereby be abandoned and shall no longer be utilized for the special exception purpose granted in prior Case No. 79-125-X.

Issue 3 - Utilization of the B.M. Zone: Another issue arose during the course of the hearing as to the utilization of the B.M. zoned portion of the subject site. Reference is made to Developer's Exhibit 6A which shows a rectangular box of B.M. zoned land located adjacent to Toys R Us. Located within that B.M. zoned portion of the site is the Martin's Eudowood Catering facility. B.M. zoning is required for such an operation. This portion of the site was specifically designated as B.M. so that Martin's could operate on the site. The proposed redevelopment of this site contemplates other uses occupying that spot that is currently zoned B.M. It was not known whether Martin's would relocate elsewhere in this center. In the event Martin's wishes to relocate to another area on the site, a new zoning classification must be designated for that use to exist outside the current B.M. zone. It appears from Developer's Exhibit 6A that other proposed tenants will occupy that area of the site zoned B.M. Therefore, pursuant to this Order, in the event Martin's wishes to continue to operate at Towson Marketplace, they must seek and obtain the proper zoning.

Issue 4 - No Movie Theaters in the Existing B.M. Zone:      Continu-

ing further on the issue of the rectangular area of B.M. zoning on this site, I further find that there is no proposal shown on Developer's Exhibit 6A to develop this portion of the site with movie theaters. Movie theaters are permitted as of right in the B.M. zone in accordance with the B.C.Z.R. No special exception is necessary should the Developer wish to locate movie theaters within this rectangular shaped area of B.M. zoned land. However, inasmuch as this development plan fails to propose movie theaters as operating in this B.M. zone and there is no proposal to locate movies in the B.M. zone in the future, the Developer shall be prohibited from attempting to locate the movies in the B.M. zone now or in the future, unless a public hearing is held as to the appropriateness of same.

Issue 5 - Movie Theaters at Towson Marketplace: If any one section of the many pages of this decision gets read, it will be this one. Many individuals will simply turn to this portion of the Order and read the decision as to the special exception requested for movie theaters. There were many issues raised at the hearing before me; however, most all of the issues raised were generated by virtue of the special exception requested for a 16-screen, 3500-seat movie complex. Therefore, many of the issues raised are directly dependent upon my decision on the Applicant's requested special exception.

I am fortunate as Deputy Zoning Commissioner to be able to rule upon this special exception request, having the benefit of the recently issued opinion of Mossberg v. Montgomery County, Maryland, (No. 58, 1995 Term). This particular opinion issued by the Court of Special Appeals, and authored by the Honorable J. Cathell, is a complete and thorough analysis of the application of special exceptions in Baltimore County and elsewhere

in the State of Maryland. This particular case is the latest of three landmark opinions that have been issued by Judge Cathell this year, all of which related to zoning. Judge Cathell has embarked upon a one-man crusade to educate community associations, lawyers, developers and zoning officials all across the State of Maryland regarding the application and granting of variances, special exceptions and special hearings. This particular case of Mossberg is a must-read for any and all community associations, lawyers, developers and zoning officials, who are involved in a special exception request.

Perhaps the greatest misconception and misunderstanding in the zoning process is the concept of a "special exception". Many citizens believe that the Developer requesting a special exception is somehow asking for something that is contrary to the zoning regulations. That is not the case. As Judge Cathell stated in Mossberg,

"Thus, we conclude, as this Court and the Court of Appeals often has, that a special exception/conditional use in a zoning ordinance recognizes that the legislative body of a representative government has made a policy decision for all of the inhabitants of the particular governmental jurisdiction, and that the exception or use is desirable or necessary in its zoning, planning, provided certain standards are met."  
Mossberg, at Pg. 5.

Therefore, the County Council of Baltimore County has made the decision that movie theaters are desirable and necessary in the B.L. zone by allowing them to be located in the B.L. zone by special exception. However, it is incumbent upon the Developer to prove that the movie theater use proposed meets the criteria established by Section 502.1 of the B.C.Z.R.

Many of the citizens who testified in opposition to the movie theater use, testified concerning the adverse effects these movie theaters

will have on their communities. For example, it was stated that young people will be attracted to the movie theaters which will detract from their study habits. They may even skip school to attend movies. The traffic generated by the movie theater use will be intense and will cause large numbers of movie-goers to congregate in the theater complex and parking lot at the same time. They will generate an increase in traffic. They may also show movies that are not in accordance with the moral character of the citizens who reside in the surrounding communities. They will operate during late hours of the evening, thereby causing traffic, noise and congestion at times that these conditions would otherwise not exist.

I agree with the citizens that these types of effects are adverse effects which may be undesirable to the residents who live in and around such use. However, simply proving that movie theaters will have adverse effects will not prevent a special exception from being granted.

In the Mossberg decision, a case that involved a special exception request for a solid waste transfer station proposed to be located in Montgomery County adjacent to two residential communities, Judge Cathell went on to say the following:

"The question in the case subjudice, therefore, is not whether a solid waste transfer station has adverse effects. It inherently has them. The question is also not whether the solid waste transfer station at issue here will have adverse effects at the proposed location. Certainly it will and those adverse effects are contemplated by the statute." Mossberg, at Page 7.

It is clear that a multi-theater use such as that proposed herein contains inherent adverse effects. Those effects were taken into consideration when the Baltimore County Council voted to allow movie theaters to exist in the B.L. zones by special exception. The key in this case, and the proper question to decide, is whether the adverse effects generated by



the proposed 16-screen, 3500-seat movie theater complex will have a greater effect at the Towson Marketplace than they would elsewhere in Baltimore County; that is, other B.L. zones located in Baltimore County.

As noted above, this Developer proposes to locate a 16-screen, 3500-seat multi-theater complex within the Towson Marketplace. This complex, as testified to by Mr. King, would be the largest concentration of theater screens in the entire mid-Atlantic region. As to parking requirements for this use, the Baltimore County Council established, pursuant to Section 409.6.B.3, (Page 4-40E of the B.C.Z.R.), the method of calculating parking spaces for such a use. Using that formula results in 700 parking spaces being attributed to the proposed movie theater complex. However, according to the standards and numbers testified to by Mr. King and Mr. Guckert, it is possible that during peak times of the year, including peak Friday and Saturday evening times, that the actual parking use may be closer to 1200 parking spaces. The parking spaces set aside by the zoning regulations may be more theoretical as opposed to actual or practical.

The testimony also demonstrated, and I hereby find, that the Towson Marketplace is predominantly zoned B.L.-CCC. That is, 42.2 acres of the 43.1-acres overall are zoned B.L.-C.C.C. It is very unique in that this shopping center and this B.L.-C.C.C. zone are surrounded on all sides by residential uses. Those residential communities have been previously identified as being Loch Raven Village, Knettishall, Fellowship Forest, Towson Estates, Greenbrier, the Courthouse Square apartment complex, and Calvert Hall college, where the Brothers who operate the school reside.

The Towson Marketplace shopping center complex is serviced by Joppa Road to the north, Putty Hill Road to the south, and Goucher Boulevard and Prince Road to the west. These roads, while running for many

miles across Baltimore County as Mr. Guckert testified, also are unique. Putty Hill Avenue bisects the Loch Raven Village community. At times it narrows to only two lanes. In this area, the road very much has a residential character. Putty Hill Avenue then extends on to the west and becomes Hillen Avenue and Burke Avenue which also narrow into two-lane roads, extending into residential communities previously identified. Furthermore, Goucher Boulevard, a four-lane road, runs adjacent to the Courthouse Square apartment complex, and extends further into residential communities, such as Goucher Woods and Campus Hills. Joppa Road to the north of the site, is a four-lane road which also passes by the northern edge of Loch Raven Village and south of Towson Estates. Therefore, the road system services primarily the residential communities that exist on all sides of the Towson Marketplace. For these reasons, I believe, and therefore find, that the location of 16 movie theaters with a seating capacity of 3500 seats in Towson Marketplace will certainly have adverse effects that would be greater at this location than if this special exception were being requested for a location elsewhere in Baltimore County in another B.L. zone. Therefore, the special exception request for 16 theaters with a seating capacity of 3500 must be denied.

Issue 6: Is a lesser intense movie theater operation appropriate at this location? The most difficult part of the decision making process in this particular case is whether a special exception should be granted for a movie theater operation that is not as intense as the one proposed herein, which includes the showing of midnight movies. Many of the citizens who testified in opposition to the theater operation voiced opposition to the intensification and magnitude of the movie operation itself. Some citizens believe that a reduction in the number of screens

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Date \_\_\_\_\_

By \_\_\_\_\_

and seating capacity would be more appropriate. Other citizens stated that there should be no midnight showings, while still other citizens stated that there should be no movies at all.

It is clear to this Deputy Zoning Commissioner that a movie operation consisting of one screen with a seating capacity of 100 seats would meet the special exception requirements. The decision to grant a special exception for a one-screen, 100-seat theater at this location is just as easy to approve as it is to deny a special exception request for 16 screens and 3500 seats. These two examples are on the extremes of what would be appropriate at this location.

The tough decision in this case is where between those two extremes would a movie theater use satisfy the special exception requirements and be appropriate at Towson Marketplace. I have many great concerns in trying to determine that "fine line". Will a reduction in the number of screens and seating capacity cause AMC and Mr. King to conclude that investing their millions of dollars into this project is not worthwhile? Will they therefore abandon this project? I was very impressed with Mr. King and the honesty and candor he exhibited during the course of the testimony he offered to the many citizens who attended the hearing. Mr. King and AMC are the type of theater operation for which I would feel comfortable approving a special exception. I believe that they would operate a first class theater operation. However, by reducing the number of screens and seating capacity, will they therefore abandon this project and will a lesser known, less reputable organization attempt to bring movies to this location?

Mr. King also agreed to show only first-run movies. This would eliminate many legitimate concerns that the Rocky Horror Picture Show,

Pink Floyd and Rolling Stone concert-type movies might be shown which would attract younger, rowdier types of audiences. Mr. King agreed not to show those types of movies and only to show first-run selections. Will another theater operator be willing to be bound by such a restriction?

Furthermore, allowing movies to locate in the center of the Towson Marketplace will impose upon me the burden of restricting the other types of uses that will be permitted to exist around this theater operation. Arcades, game rooms and virtual reality operations are the types of uses that, in the opinion of this Deputy Zoning Commissioner, would not be appropriate to co-exist with the theater operation. These other types of uses are destined to cause young people to unnecessarily congregate within the center of the Towson Marketplace. It is not my desire to dictate who and what types of uses Developers can locate in their shopping complexes. However, in this instance, I feel I will have no alternative.

Another concern I have is whether it is appropriate to restrict the showing of midnight movies at Towson Marketplace. The neighborhoods surrounding the Towson Marketplace have been there for many decades. The Marketplace itself has also existed at this location for many decades. The communities have grown accustomed to the retail operation of the Marketplace ending at a reasonable hour of the evening. This has allowed those communities to peacefully co-exist with the Marketplace and the residents to go to bed at a decent hour of the evening. They are also able, while weather permits, to sleep with their windows open. I believe it is incumbent upon me to ensure that whatever level of theater operation is permitted will not take away or interfere with the peaceful enjoyment that the residents of the surrounding communities currently enjoy. Baltimore County should not foster and promote development at the expense of its citi-

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By \_\_\_\_\_

zens who have come to enjoy the quality of life this County offers. That is exactly what could happen here in the event movies were permitted to be shown all hours of the evening.

After considering all of the testimony offered over the entire four days of hearings, the many exhibits offered into evidence by both the Developer as well as the citizens, and the memoranda submitted by Counsel, I believe the greatest movie theater operation that should be permitted to exist at the Towson Marketplace at this time, and which would satisfy the special exception requirements that control my decision, would be an operation of six (6) movie screens, with a total seating capacity of 1500. This theater operation must be heavily restricted if it is allowed to exist at this location. Thus, at the end of this Order there shall appear conditions and restrictions that further limit the granting of this special exception for six theaters with a seating capacity of 1500.

It is my hope that the reduction of the number of screens and seating capacity and the conditions and restrictions that I have imposed upon the operator of these theaters will not cause Mr. King and AMC to abandon this project. As stated previously, they appear to operate the type of movie theater that I would like to see operate at Towson Marketplace. It is my further hope that this reduction of the proposed theater operation will not cause the Developer to abandon the redevelopment of the Towson Marketplace. Everyone who testified, both for and against this project, were in agreement that the Marketplace itself is in dire need of a cash transfusion. I trust the redevelopment will proceed.

Furthermore, as to the special exception request for the movie theater operation, I believe it to be appropriate in this particular case that the Developer and/or AMC shall be permitted to re-Petition after the

expiration of one-year from the date of the opening of the six movie theaters granted herein to either increase the number of movie screens and/or the seating capacity, or to alter the conditions and restrictions imposed at the end of this Order. This will afford the Developer and AMC the opportunity to prove to the citizens who live in and around this area that they can be good neighbors and can co-exist with the residential uses surrounding the Towson Marketplace. This will also provide an appropriate test to determine whether the movie theater use can be expanded after observing the theater operation for one year. Furthermore, out of fairness to the communities, in the event the Developer chooses to re-Petition after this one year period, so too will the citizens be afforded an opportunity to request a reduction in the number of screens, seating capacity, or for additional restrictions to be imposed upon the theater operation. This ability to re-Petition after one year will give the Developer an opportunity to prove that the theater operation can exist without repercussions to the surrounding neighborhoods. If successful, maybe an increase would be appropriate. If not, then a decrease may be warranted.

In their comments dated October 11, 1995, the Office of Planning and Zoning (OPZ) recommended approving the 16 screens and after two years, reviewing the matter to determine if parking is sufficient and whether a garage should be built. This comment suggested to me that a re-Petition process might be an acceptable way to proceed in this matter. However, I believe it is not prudent to grant the entire movie theater request at this time. I believe it to be wiser to commence with a smaller operation and consider an increase in the future, then to try to make the Developer reduce his operation, once it has already been granted.

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By \_\_\_\_\_

Issue 6 - Variances: As a result of several decisions that have been made pursuant to this Order, the parking requirements for the Towson Marketplace have changed. As stated previously, the issue of whether a parking garage could be constructed in the southeastern corner of this site was not properly before this Hearing Officer. Therefore, the Developer loses the benefit of the parking spaces that the garage would have provided. However, inasmuch as the special exception granted herein is for a theater complex considerably smaller in size than that requested, the parking requirements for that use have also changed. Therefore, the parking requirements as they now stand are as follows:

1) The Developer is now proposing 592,000 sq.ft. of gross leasable area. Parking calculations, given that amount of leasable space, are 5 parking spaces per 1,000 sq.ft. In calculating the number of spaces using these figures, the Developer is therefore required to provide 2,960 parking spaces. The seating capacity for the theaters has also been reduced. Using the formula provided in the B.C.Z.R., the calculation for the parking requirements for the six-theater use granted herein are as follows: 1500 seats at 1 parking space per 4 seats, multiplied by 80%, equals a parking requirement of 300 spaces. Therefore, the total number of parking spaces required for the Towson Marketplace under today's standard of calculation would be 3,260 parking spaces. The Developer has provided, pursuant to Developer's Exhibit 6A, 2,935 parking spaces. This leaves a deficiency of 325 parking spaces for which a variance is either required, or the previously granted variance for 368 parking spaces be carried forward.

Testimony during the course of the hearing and a review of prior Case No. 77-230-XA demonstrates that a previous variance was granted by

then Zoning Commissioner S. Eric DiNenna for 368 parking spaces. Assuming that parking spaces correlate under today's standards on a one-to-one basis, it would appear that if the Developer can carry over the previously granted parking variance, a new parking variance would be unnecessary.

Furthermore, in the interest of a better development, the Developer has sacrificed approximately 130 parking spaces in order to provide the landscaping that is proposed in the parking areas of this property. The loss of parking spaces is due to the newly created parking islands upon which trees would be planted as well as other directional types of islands that help to facilitate the orderly flow of traffic around Towson Marketplace. Given these factors, I hereby find that the previous variance for 368 spaces shall be carried forward on a one-to-one basis. By so doing, the Developer exceeds parking requirements by 43 spaces.

Therefore, taking the additional landscaping into consideration as well as carrying over the previously approved parking variance granted by then Zoning Commissioner DiNenna, plus the reduction in the seating capacity of the theaters, I believe the Developer has fully satisfied, and in fact, somewhat exceeds the required number of parking spaces for this project. Therefore, no variance is necessary, nor is it necessary to construct an expensive, unsightly and potentially unsafe parking garage. For these reasons I hereby find that it is unnecessary for the Developer to request a variance for parking and the Petition for Variance shall be dismissed as moot.

It is noted from the development plan that the Developer has attributed 72,000 sq.ft. of the Marketplace complex to be utilized in accordance with the movie theater operation. It is possible, since the theater operation has been reduced, that there will be an excessive amount



of square footage available to the Developer to be used in some other fashion. The Developer may wish to leave the space unutilized, and after the expiration of the one-year period mentioned in the special exception portion of this Order, re-Petition to increase the theater use to encompass that unused area of square footage. In any event, it is not known at this time how much square footage will be attributable to the six-screen, 1500 seat theater operation granted herein. Once the amount of square footage is established for theater use, the Developer may have extra square footage to utilize and depending on how it is used, he may have to request a variance at that time, should his parking requirements exceed the number of spaces he is providing.

Issue 7 - Amenity Open Space (AOS): An issue was raised by a citizen concerning the calculation of the AOS area required for this project. The main basis for that argument was that the Developer failed to take into account the area of the parking garage in their calculations. Inasmuch as no parking garage will be constructed on this site, I believe that the AOS provided satisfies the development regulations. Therefore, this issue is one that is not sufficient to warrant a denial of the development plan.

Issue 8 - Development Plan changes: The community raised an objection to the Developer making revisions to the development plan throughout the development process. However, many of the revisions made to the plan were as a result of community comments or modifications requested by the various Baltimore County reviewing agencies. Therefore, it is natural for the development plan to undergo minor modifications throughout the development process. This would include even up to the date of the Hearing Officer's hearing. However, as stated previously, in the

opinion of this Hearing Officer, it was improper for the Developer to propose a parking garage in the southeastern corner of the site and that modification would warrant the Developer to hold a second Community Input Meeting (CIM) in the event they wished to pursue same. However, all of the other modifications that were made to this development plan throughout the development process, were proper and appropriate, and quite frankly, the way the development process was designed to work. Therefore, but for the addition of a parking garage, the other changes made to the plan were proper and appropriate and do not warrant a denial of the plan.

Issue 9 - Development Plan approval: The Developer offered to this Hearing Officer two development plans, marked Developer's Exhibits 6A and 6B. For reasons previously stated, Developer's Exhibit 6B which showed the parking garage has been rejected, and Developer's Exhibit 6A shall be approved. The approval of this development plan is being made in conjunction with the granting of the special exception for a six-screen, 1500-seat movie theater complex pursuant to the conditions and restrictions imposed herein. That is, the same conditions and restrictions imposed upon the special exception relief shall also be imposed upon the development plan approval.

The main issue raised concerning the redevelopment of Towson Marketplace, had to do, not necessarily with the development plan itself, but with the proposed 16-screen movie theater complex. Having resolved the issue of the special exception request, the development plan submitted into evidence as Developer's Exhibit 6A shall be approved.

It was clear over the course of the testimony and evidence offered at the hearing that every citizen who attended this four-day hearing supported the Developer and his efforts to revitalize the Towson Marketplace.

However, as stated previously, they did not wish to see this revitalization at the expense of the quality of life they currently enjoy.

The profitability and successfulness of the Towson Marketplace has always been questionable. It was extremely enlightening to read the Order issued in 1977 by then Zoning Commissioner DiNenna. From reading his decision, the successfulness of Towson Marketplace was as much a question in 1977 as it is today. One thing, however, has remained constant. The residential communities surrounding Towson Marketplace have always been solid, productive and stable communities throughout their entire existence. It would not be prudent now to permit a use that could jeopardize the one thing we know for sure has proven to be successful during its entire existence, that is, the communities themselves. I believe this Order and the conditions and restrictions associated with it, will continue to foster the quality of life these citizens have created for themselves while at the same time, give this Developer the flexibility to make Towson Marketplace a successful retail establishment.

THEREFORE, pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Subtitle 26 of the Baltimore County Code, the advertising of the property and public hearing held thereon, and having considered all of the testimony, exhibits and evidence offered to me, as well as arguments presented by Counsel,

IT IS ORDERED by the Deputy Zoning Commissioner/Hearing Officer for Baltimore County this 9<sup>th</sup> day of November, 1995 that the development plan for Towson Marketplace, identified as Developer's Exhibit 6A, be and is hereby APPROVED, consistent with the comments contained herein and the conditions and restrictions set forth hereinafter; and,

IT IS FURTHER ORDERED that Developer's Exhibit 6B, the alternative development plan which proposed a parking garage on the southeast corner of the subject site, be and is hereby DENIED. Should the Developer wish to pursue the construction of a parking garage in the future, a new Community Input Meeting (CIM) must be held in order to entertain community concerns as to said parking garage; and,

IT IS FURTHER ORDERED that a six-screen movie theater complex, with a total seating capacity of 1500, is hereby approved, subject to the restrictions set forth hereinafter, and as such, the Petition for Special Exception, as modified, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Exception to permit the relocation of the Montgomery Wards automotive service center to the location highlighted in pink on Developer's Exhibit 6A, be and is hereby GRANTED, and pursuant to this relocation, the old special exception area previously granted in Case No. 79-125-X, shall be abandoned and thus, terminated; and,

IT IS FURTHER ORDERED that the previously approved variance of 368 parking spaces, pursuant to Case No. 77-230-XA, shall continue forward and may be utilized by the Developer at this time; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 409.6.A.2 to permit 3,000 parking spaces in lieu of the required 3,357 spaces for a retail center and movie theaters, in accordance with Developer's Exhibit 1, be and is hereby DISMISSED AS MOOT; and,

IT IS FURTHER ORDERED that the area of the Towson Marketplace that is zoned B.M. and which currently encompasses the Martin's Eudowood operation, shall in no way be utilized for the purpose of locating movie theaters therein. Movie theaters are permitted as of right in the B.M.

zone, however, there is no proposal to locate movies in the B.M. zone at this time, and thus, it is not permissible for the Developer to locate them within the B.M. zone at any time in the future, without another public hearing being held on the appropriateness of same; and,

IT IS FURTHER ORDERED that the Martin's Eudowood catering operation shall be permitted to continue to operate in the B.M. zone; however, in the event that operation should relocate to elsewhere within the Towson Marketplace, it must operate in a zone that permits such a use. This in effect would necessitate a request for zoning reclassification; and,

IT IS FURTHER ORDERED that all of the relief granted herein, that being approval of the development plan marked as Developer's Exhibit 6A, the granting of the special exception for six movie theaters with a seating capacity of 1500, and the relocation of the Montgomery Wards automotive service center, shall be expressly conditioned upon the Developer's compliance with the following restrictions:

- 1) One of the major issues raised by the citizens concerned security measures for the redevelopment of Towson Marketplace. The Developer has prepared an elaborate security plan for this property, pursuant to Developer's Exhibit 16. The Developer will be required to install the surveillance cameras designated on that plan and all six (6) surveillance cameras shall be operable every day of the year. Furthermore, the Developer shall provide a roving patrol to cover the perimeter of the shopping center to provide security 24 hours a day, 7 days a week. Inasmuch as the theater operation has been drastically reduced, the Developer shall only be required, pursuant to this Order, to provide one security guard in the interior of the shopping center and one guard to monitor the surveillance cameras in the command center. The Developer is certainly permitted to add any additional security measures he deems necessary, however, these restrictions shall be the minimum amount of security to be provided pursuant to this Order. In the event the minimum security measures set forth in this restriction are not adhered to by the Developer, then the special exception granted for the six-movie theater operation shall be rescinded and become null and void.

3) The lighting for the Towson Marketplace shall be in accordance with Developer's Exhibit 12, which was the lighting proposal discussed at the hearing before me. All lighting of the property shall be operational and replaced as necessary.

4) The facade of the Towson Marketplace shall be consistent with the elevation drawings entered into evidence as Developer's Exhibits 11A and 11B. Mr. Glazer, the Architect who designed the facade, did an excellent job in providing a residential look to this shopping center. Therefore, the redevelopment of Towson Marketplace shall be consistent with those elevation drawings.

5) The Developer shall be required to ensure that the parking lot areas as well as all buffer areas remain free and clear of trash and debris. This trash removal shall be performed on a daily basis.

6) The Developer proposes to relocate the entrance from Putty Hill Avenue on the southeastern portion of the Towson Marketplace. This relocation requires that the median strip in Putty Hill Avenue be eliminated at that location. This will cause the landscaping that was planted by the community association to be destroyed and lost. Therefore, the Developer shall be obligated to replace the lost or destroyed landscaping with an equal amount of planting elsewhere in the community. The Office of Planning and Zoning (OPZ) shall oversee and ensure that the landscaping that is lost is offset by additional landscaping planted elsewhere within the community.

7) Submitted into evidence as Developer's Exhibit 13 was a proposed landscaping plan for Towson Marketplace. The Developer shall be required to install all landscaping in accordance with that plan. The Developer shall work in conjunction with the Office of Planning and Zoning in furtherance of this landscaping requirement.

8) The Developer has been granted a special exception to operate a six screen, 1500-seat movie theater operation. The granting of this special exception is conditioned upon the following specific restrictions:

a) All movies shown at Towson Marketplace shall be first-run movies with the only exception being Holiday movies or re-releases of children's movies.

b) There shall be no showing of midnight movies whatsoever. All movies shall conclude by 11:30 PM, Sunday through Thursday, and conclude by 12:30 AM on

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Date \_\_\_\_\_

By \_\_\_\_\_

Fridays, Saturdays and Legal Holidays. This restriction is essential to the preservation of the quality of life the surrounding communities of the Towson Marketplace currently enjoy.

VIOLATION OF RESTRICTIONS 8A and 8B SHALL CAUSE THE SPECIAL EXCEPTION GRANTED HEREIN FOR THIS THEATER USE TO IMMEDIATELY CEASE AND TERMINATE AND THEREBY CAUSE THIS DEVELOPER, OR ITS TENANTS, TO BE PROHIBITED FROM SHOWING ANY MOVIES WHATSOEVER AT TOWSON MARKETPLACE.


9) The Developer shall post the parking lot with "No Loitering" signs and shall strictly enforce this regulation. Furthermore, the Developer, through the use of his security force, shall dissuade and prevent, to the extent possible, individuals from gathering and congregating within the interior of the Towson Marketplace complex where said individuals are not patronizing the retail establishments located therein.

10) There shall be no Arcades, game rooms, virtual reality-type uses or other similar establishments located within the theater or entertainment area of the Towson Marketplace, without a public hearing being held to determine the appropriateness of same.

IT IS FURTHER ORDERED, that each and every restriction and condition imposed by this Order is essential to the relief granted herein. They all stand in conjunction with one another. No person shall be permitted to single out certain restrictions and appeal only that aspect of this decision. Any appeal filed hereinafter shall be an appeal of this entire decision and shall cause all issues to be re-litigated before the Board of Appeals.

Any appeal of this decision must be taken within thirty (30) days of the date of this Order.

TMK:bjs

  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County



# Petition for Special Exception

to the Zoning Commissioner of Baltimore County

for the property located at

96-95-XA

Towson Marketplace

which is presently zoned

B.L.-CCC

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for

movie theaters in a retail center

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

John B. Gontrum

(Type or Print Name)

Signature

814 Eastern Boulevard 686-8274

Address Phone No.

Baltimore, Maryland 21221

City State Zipcode

Legal Owner(s):

Talisman - Towson Partnership LLC

(Type or Print Name)

Signature

By: James Schlesinger

(Type or Print Name)

Signature

1500 San Remo Avenue, Suite 185-A

Address

Phone No.

(305) 662-9559

Coral Gables, Florida 33146

City State Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY: DATE

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# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at

96-95-XA

Towson Marketplace

which is presently zoned B.L.-CCC

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 409.6A.2 to permit 3,000 parking spaces in lieu of the required 3357 spaces for a retail center and theaters.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

The shopping center is a unique piece of property, which like other centers such as Eastpoint Mall have never utilized the parking provided due to public transportation to the site. A previous variance of 368 spaces was granted in Case No. 77-230-XA, and this variance will increase that by only 357 spaces. (see attachment)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

John B. Contrum

(Type or Print Name)

Signature

814 Eastern Boulevard

Address

686-8274

Phone No.

Baltimore, Maryland

City

State

Zipcode

Legal Owner(s).

Talisman - Towson Partnership LLC

(Type or Print Name)

Signature

BY: James Schlesinger

(Type or Print Name)

Signature

(305) 662-9559

1500 San Remo Avenue, Suite 185-A

Address

Phone No.

Coral Gables, Florida 33146

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates \_\_\_\_\_ Next Two Months

ALL

OTHER

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DATE



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**8/31/95**  
**WCR**

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NO REVIEW  
8/21/95  
RGR

Attachment to Petition for Variance

96-95-XA

Reasons for Practical Difficulty Justifying Variance

Historically, the parking area provided has had many areas unused to the point that the pavement has crumbled due to lack of surface use. To provide the required parking when similar centers with public transportation have been granted similar variances is not reasonable. To provide the required parking an above-ground lot would have to be placed on the site for no discernable reason.

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**KCW Consultants, Inc.**

Civil Engineers and Land Surveyors  
3104 Timanus Lane, Suite 101 / Baltimore, Maryland 21244

(410) 281-0030 / 281-0033 / Fax (410) 298-0604

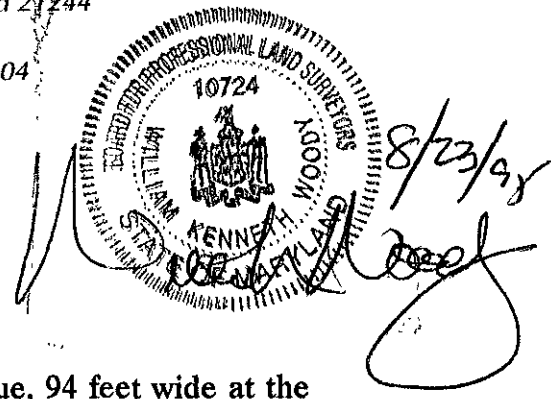
96-95-XA

August 23, 1995

**ZONING DESCRIPTION**

**"TOWSON MARKETPLACE"**

9th Election District, Baltimore County, Maryland



**BEGINNING** at a point on the north side of Putty Hill Avenue, 94 feet wide at the distance 130 feet east of the centerline of Putty Hill Avenue and Goucher Boulevard, 110 feet wide. Thence the following courses and distances:

1. North 49 degrees 19 minutes 10 seconds West 106.07 feet;
2. North 04 degrees 19 minutes 10 seconds West 279.68 feet;
3. curve to the left having a radius of 1965.00 feet, an arc length of 132.50 feet  
and a chord bearing North 06 degrees 15 minutes 04 seconds West 132.47 feet;
4. North 07 degrees 22 minutes 07 seconds East 95.98 feet;
5. North 23 degrees 38 minutes 33 seconds East 497.69 feet;
6. North 23 degrees 38 minutes 33 seconds East 655.64 feet;
7. North 68 degrees 36 minutes 24 seconds East 33.18 feet;
8. South 64 degrees 56 minutes 08 seconds East 148.69 feet;
9. South 50 degrees 41 minutes 08 seconds East 36.53 feet;
10. South 64 degrees 56 minutes 08 seconds East 338.58 feet;
11. North 25 degrees 03 minutes 52 seconds East 9.00 feet;
12. South 64 degrees 56 minutes 08 seconds East 301.19 feet;
13. curve to the left having a radius of 4062.49 feet, an arc length of 19.99 feet  
and a chord bearing South 65 degrees 04 minutes 36 seconds East 19.99 feet;
14. South 51 degrees 41 minutes 51 seconds East 37.79 feet;
15. curve to the left having a radius of 4071.49 feet, an arc length of 344.34 feet  
and a chord bearing South 68 degrees 09 minutes 27 seconds East 344.24 feet;
16. South 13 degrees 56 minutes 50 seconds West 1132.47 feet;
17. curve to the left having a radius of 1637.00 feet, an arc length of 434.40 feet  
and a chord bearing North 86 degrees 43 minutes 02 seconds West 433.13 feet;
18. South 85 degrees 40 minutes 50 seconds West 93.96 feet;
19. South 04 degrees 19 minutes 10 seconds East 10.00 feet;
20. South 85 degrees 40 minutes 50 seconds West 294.00 feet;
21. North 56 degrees 28 minutes 50 seconds West 14.00 feet;
22. South 66 degrees 59 minutes 10 seconds West 58.00 feet;
23. South 85 degrees 40 minutes 50 seconds West 346.35 feet to the place of  
beginning as recorded in deed Liber S.M. 10547, Folio 579.

**CONTAINING** 43.120 acres of land, more or less. Also known as "Towson Marketplace" and located in the 9th Election District.

001

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ZADM

**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY**  
Towson, Maryland

96-95

District: 9th Date of Posting: 9/12/95  
Posted for: Special Exception & Variance  
Petitioner: Towson Market Place  
Location of property: Sylvan Lappa & Price Rd  
Location of Sign: Facing road way on property being used  
Remarks: \_\_\_\_\_  
Posted by: M. L. L. L. Date of return: 9/22/95  
Signature  
Number of Signs: 1





# NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #99-95-XA (Item 100)  
Towson Marketplace  
SWC Koppa Road and Ponce  
Road; also  
NEO Putty Hill Road and  
Goucher Boulevard  
9th Election District  
4th Councilmanic

Legal Owner(s):  
Talisman-Towson Partner-  
ship, LLC

Hearing: Tuesday, October 17,  
1996; Wednesday, October 18,  
and Thursday, October 19,  
1996, each day beginning at  
9:00 A.M. in Rm. 118, Old  
Courthouse

Special provision for the  
theaters in a 1000 car  
space to permit 2000 parking  
spaces in 1000 of the 1000  
3,367 spaces for a 1000 car  
and theater

LAWRENCE SCHERIDT,  
Zoning Commissioner for  
Baltimore County

NOTES: (1) Hearings are Hand-  
capped Accessible for special  
accommodations. Please Call  
887-3393.

(2) For information concerning  
the File and/or Hearing, Ple  
Call 887-3391.  
9/169 Sept. 21,

## CERTIFICATE OF PUBLICATION

TOWSON, MD.,

9/29, 1995

THIS IS TO CERTIFY, that the annexed advertisement was  
published in THE JEFFERSONIAN, a weekly newspaper published  
in Towson, Baltimore County, Md., once in each of 1 successive  
weeks, the first publication appearing on 9/21, 1995.

THE JEFFERSONIAN,

A. Henrichson  
LEGAL AD. - TOWSON

TO: PUTUXENT PUBLISHING COMPANY

September 21, 1995 Issue - Jeffersonian

Please forward billing to:

John B. Gontrum, Esq.  
814 Eastern Boulevard  
Baltimore, Maryland 21221  
686-8274

---

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
OR  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-95-XA (Item 100)

Towson Marketplace

SWC Joppa road and Pounce Road; also

NEC Putty Hill Road and Goucher Boulevard

9th Election District - 4th Councilmanic

Legal Owner: Talisman-Towson Partnership, LLC

HEARING: TUESDAY, OCTOBER 17, 1995; WEDNESDAY, OCTOBER 18; and THURSDAY, OCTOBER 19, 1995, each day beginning at 9:00 a.m. in Room 118, Old Courthouse.

Special Exception for movie theaters in a retail center.

Variance to permit 3,000 parking spaces in lieu of the required 3,357 spaces for a retail center and theaters.

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. \*  
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

TO: PUTUXENT PUBLISHING COMPANY

September 21, 1995 Issue - Jeffersonian

Please forward billing to:

John B. Gontrum, Esq.  
814 Eastern Boulevard  
Baltimore, Maryland 21221  
686-8274

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Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-95-XA (Item 100)

Towson Marketplace

SWC Joppa road and Ponce Road; also

NEC Putty Hill Road and Goucher Boulevard

9th Election District - 4th Councilmanic

Legal Owner: Talisman-Towson Partnership, LLC

HEARING: TUESDAY, OCTOBER 17, 1995; WEDNESDAY, OCTOBER 18; and THURSDAY, OCTOBER 19, 1995, each day beginning at 9:00 a.m. in Room 118, Old Courthouse.

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LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

September 12, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified hereinin Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

DEVELOPMENT PLAN HEARING

Project Number: IX-386

Project Name: Towson Marketplace

Developer: Talisman-Towson Partnership LLC

Location: S/S Joppa Road, E of Goucher Boulevard

Acres: 43.12

Proposal: Commercial - 562,763 sq. ft.

and

CASE NUMBER: 96-95-XA (Item 100)

Towson Marketplace

SWC Joppa road and Punce Road; also

NEC Putty Hill Road and Goucher Boulevard

9th Election District - 4th Councilmanic

Legal Owner: Talisman-Towson Partnership, LLC

Special Exception for movie theaters in a retail center.

Variance to permit 3,000 parking spaces in lieu of the required 3,357 spaces for a retail center and theaters.

HEARING: TUESDAY, OCTOBER 17, 1995; WEDNESDAY, OCTOBER 18; and THURSDAY, OCTOBER 19, 1995, each day beginning at 9:00 a.m. in Room 118, Old Courthouse.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon  
Director

cc: Talisman-Towson Partnership, LLC  
John B Gontrum, Esq.

- NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.



## TOWSON MARKETPLACE ZONING HISTORY

CASE NO.	DATE	DESCRIPTION
5900		Variance for identification sign
68-83-R		Reclassification from R-6 to B.L.
74-143-R	Approved Jan. 7, 1974	Reclassification of 0.33 acres from B.L. to B.M. for Martin's catering.
77-230-XA	Approved	Variance to permit 3047 off-street parking spaces in lieu of the required 3415 spaces (-368 parking spaces). Use of theaters was denied.
79-125-X	Approved Feb. 5, 1979	Special Exception for automotive service garage in Montgomery Wards.
1984 Compr. Zoning Maps	1984	B.L.CCC and D.R.5.5 (13.9 acres)
88-136-SPH	Denied Jan. 29, 1988	SPH for a use permit to store new automobiles in D.R.5.5 zone.
1988 Compr. Zoning Maps	1988	Zoning Change: D.R.5.5 to B.L.-CCC
Permit 104135 C-1664-88	Approved March 1989	Site plan updated to include "Blockbuster Video" pad site building.
93-360-SPHA	Approved June 24, 1993	Variance for 0' setback for existing parking SPH to amend site plan for Hemphill's Outdoor Garden Center.
96-95-XA and Development Plan #IX-386	Approved Nov. 9, 1995 Amended Order Feb. 22, 1996	Variance for parking granted for continuance of -368 p.s. per #77-230-XA and additional -130 p.s. to allow 2972 p.s. total. Relocation of auto service garage previously approved per #79-125-X granted for new location specified on Development Plan #IX-386.
97-89-SPHX, and Development Plan #IX-386	Approved Oct 8, 1996	SPH to approve Amended Development #IX-386. Special Exception to approve relocation of auto service garage previously approved per Case #79-125-X and Case #96-95-XA.
98-245-SPH	Approved March 31, 1998	SPH to clarify previous restrictions #3 & #4 case #96-95-XA as they relate to exhibits 11(a), 11(b) and 12 in that case and an amendment to the site plan in case #97-89-SPHX (3 restrictions) also the lighting plan and jurisdiction and authority to modify same shall be with the DZC (Deputy Zoning Commissioner). Also the DZC shall have jurisdiction over any changes in the facades. Also all of the terms and conditions and restrictions in prior case #IX-386 and #96-95-XA and #97-89-SPHX shall remain in full force and effect unless changed by this Decision.
00-213-SPH	Approved Jan. 1, 2000	SPH to amend restrictions in prior cases to permit the Toys-R-US façade and installation. To allow a hedgerow in lieu of brick wall along Putty Hill Ave. In accordance with agreement entered into between the parties, Tailsman and CAMM, Inc., dated 12/17/99, which shall be incorporated in this Order.



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

October 12, 1995

John B. Gontrum, Esquire  
814 Eastern Boulevard  
Baltimore, MD 21221

RE: Item No.: 100  
Case No.: 96-95-XA  
Petitioner: Talisman-Towson  
Partnership LLC

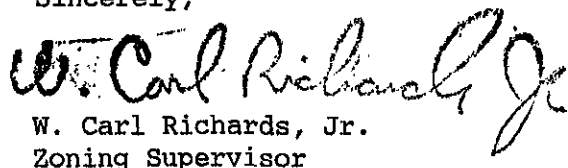
Dear Mr. Gontrum:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on August 31, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

  
W. Carl Richards, Jr.  
Zoning Supervisor

WCR/jw  
Attachment(s)



BALTIMORE COUNTY, MARYLAND  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT  
INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management  
September 18, 1995

FROM: J. Lawrence Pilson *JLP*  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #100 *2* Towson Marketplace  
Joppa, Putty Hill Roads, and Goucher Blvd.  
Zoning Advisory Committee Meeting of September 11, 1995

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Comments from this Department for the Development Plan Conference dated 9/27/95 apply.

*JLP*:LS:sp

TOWSON/DEPRM/TXTSBP

BALTIMORE COUNTY, MARYLAND  
I N T E R O F F I C E C O R R E S P O N D E N C E

TO: Arnold Jablon, Director      DATE: Sept. 18, 1995  
Zoning Administration and Development Management

FROM: *[Signature]* Robert W. Bowling, P.E., Chief  
Development Plans Review Division

RE: Zoning Advisory Committee Meeting  
for September 18, 1995  
Item No. 100

The Development Plans Review Division has reviewed the subject zoning item. The proposed entrance along Putty Hill Avenue shall be constructed per Dept. of Public Works Standard Plate R-32, Single Commercial Entrance.

If the Developer closes his existing channelized commercial entrance on Putty Hill Avenue at the Toy 'R' Us Store, he will have to construct concrete curb and gutter to close the median opening at this location.

RWB:sw



Baltimore County Government  
Fire Department



700 East Joppa Road Suite 901  
Towson, MD 21286-5500

(410) 887-4500

DATE: 09/12/95

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

RE: Property Owner: TALISMAN-TOWSON PARTNERSHIP

LOCATION: SWC JOPPA RD. AND PUNCE RD., ALSO NEC PUTTY HILL RD. AND  
GOUCHER BLVD. (TOWSON MARKET PLACE)

Item No.: 100

Zoning Agenda: SPECIAL EXCEPTION

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1991 edition prior to occupancy.

REVIEWER: LT. ROBERT P. SAUERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Printed on Recycled Paper

RECEIVED

SEP 13 1995

ZADM



**Maryland Department of Transportation**  
**State Highway Administration**

David L. Winstead  
Secretary  
Hal Kassoff  
Administrator

9-12-95

Ms. Joyce Watson  
Baltimore County Office of  
Permits and Development Management  
County Office Building, Room 109  
Towson, Maryland 21204

RE: Baltimore County  
Item No. 100 (WCR)


Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

*for*   
Ronald Burns, Chief  
Engineering Access Permits  
Division

BS/es

My telephone number is \_\_\_\_\_

Maryland Relay Service for Impaired Hearing or Speech  
1-800-735-2258 Statewide Toll Free

**Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717**  
**Street Address: 707 North Calvert Street • Baltimore, Maryland 21202**

MEMORANDUM

DATE: October 17, 1995

TO: The File, Towson Market  
Place, IX-386

FROM: David Flowers, Project  
Manager

RE: Towson Market Place, HOH

\* The Concept Plan Conference was held on May 1, 1995.

\* The Community Input Meeting was held on May 22, 1995 in the Loch Raven Sr. High School at 7:00PM.

\* The Development Plan Conference was held on September 27, 1995.

\* The Hearing Officers Hearing is being held on October 17, 1995.

\* The Owner and Developer is Talisman- Towson Partnership LLC, 1500 San Remo Ave., Coral Gables, Florida, 33146.

\* Towson Market Place is located on the South side of Joppa Road, East side of Goucher Blvd., North side of Putty Hill Rd.

\* The existing zoning is BL-CCC, BM, ML-IM, & DR 10.5

\* The acreage of this site is 43.12 acres.

\* The development proposal is for a 605,000 square foot of retail space and a 3,500 seat theater complex.

\* \* A Special Exception hearing is required for theaters in a BL-CCC zone. A Zoning Variance was previously granted for a reduction of 368 parking spaces; the continuation of that Variance is requested as is another Variance for an additional 439 parking spaces. This will total 807 parking

spaces being requested for a Variance. The proposed development requires 3,725 parking spaces without any Variance.

BALTIMORE COUNTY, MARYLAND

SUBJECT: RED-LINED CHANGES TO THE  
DEVELOPMENT PLAN COMMENTS

DATE: 10/11/95

FROM: ZADM - DEVELOPMENT CONTROL

---

PROJECT NAME: **Towson Marketplace**

PLAN DATE: 8/22/95

LOCATION: S/S Joppa Road,  
E of Goucher Boulevard

REV.: 9/27/95

DISTRICT: 9c4

REVISED PLAN KEY:  
(X) COMPLIANCE WITH COMMENT CHECKED  
(O) NON-COMPLIANCE IS CIRCLED  
(BA) BE ADVISED (NOT NECESSARY FOR CONCEPT  
PLAN APPROVAL, BUT MUST BE ADDRESSED  
PRIOR TO FINAL ZONING APPROVAL)  
ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

PROPOSAL: Additions to Mall

- 
1. Case #79-125-X for a service garage in an existing building area was granted for that particular location. The new service garage building will require an additional zoning hearing, as would any other change in, or proposed special exception locations. Show and label the locations of all special exception boundaries to include the required parking.
  2. Add setbacks to property lines of the 9,000-square foot pad.
  3. Add note that "qualifying AOS (Amenity Open Space) areas meet the definition of Section 101 of the Baltimore County Zoning Regulations".
  4. The development plan and zoning public hearing plan must agree.
  5. Approval of Rahee Famili, Developers Engineering Section, is required for vehicles backing out along aisles on the southside (Putty Hill Avenue).
  6. "Martins" must be located in the Business Major (B.M.) zone as discussed at a prior meeting (5/1/95).
  7. State if the snowball stand (southside along Putty Hill Avenue) is to remain (plus add 1 parking space for it) and show it.

  
JOHN J. SULLIVAN, JR.  
Planner II

BALTIMORE COUNTY, MARYLAND

SUBJECT: DEVELOPMENT PLAN COMMENTS  
FROM: ZADM - DEVELOPMENT CONTROL

DPC DATE: 9/27/95  
(comments completed 9/27/95 p.m.)

PROJECT NAME: **Towson Marketplace**

PLAN DATE: 8/22/95

LOCATION: S/S Joppa Road,  
E of Goucher Boulevard

REV.: 9/27/95

DISTRICT: 9c4

PROPOSAL: Additions to Mall

REVISED PLAN KEY:  
(X) COMPLIANCE WITH COMMENT CHECKED  
(O) NON-COMPLIANCE IS CIRCLED  
(BA) BE ADVISED (NOT NECESSARY FOR CONCEPT  
PLAN APPROVAL, BUT MUST BE ADDRESSED  
PRIOR TO FINAL ZONING APPROVAL)  
ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

1. Add all decisions and restrictions to all prior zoning cases (i.e., 77-230-XA does not address the special exception decision in note #30).
2. Add the site-specific granting of special exception zoning hearings which limits their location to the zoning description in that particular case. For example, case #79-125-X for a service garage in an existing building area was granted for that particular location. The new service garage building will require an additional zoning hearing, as would any other change in, or proposed special exception locations. Show and label the locations of all special exception boundaries to include the required parking.
3. Add dimensions and setbacks to property lines of the 9,000-square foot pad.
4. Will the snowball stand (southside along Putty Hill Avenue) remain?
5. Shade and dimension qualifying AOS (Amenity Open Space) areas as defined in Section 101 of the Baltimore County Zoning Regulations. Correct calculations accordingly.

(Over)

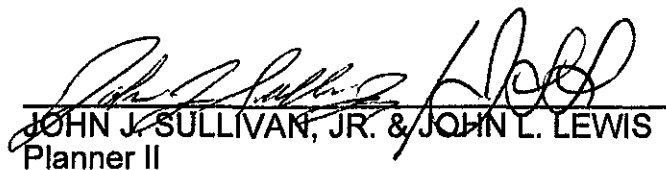
DEVELOPMENT PLAN COMMENTS

PROJECT NAME: Towson Marketplace

DPC DATE: 9/27/95

PAGE 2

6. State the item or case number for requested parking variance (plan note #15) and clarify (2 plans submitted, 1 labeled alternate plans).
7. Include, as part of the zoning hearings requested (note #33), a special hearing to amend the prior approved plans and orders.
8. The development plan and zoning public hearing plan must agree.
9. Approval of Rahee Famili, Developers Engineering Section, is required for vehicles backing out along aisles on the southside (Putty Hill Avenue).

  
JOHN J. SULLIVAN, JR. & JOHN L. LEWIS  
Planner II

JJS:scj

OK per Deputy ZF / 500 00 - 214-SPH A/E



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
pdmlandacq@co.ba.md.us

September 11, 1998

NationsBank, N.A., a national banking association  
c/o NationsBanc Montgomery Securities, LLC  
NationsBank Corporate Center - 11th Floor  
100 North Tryon Street  
Charlotte, NC 28255

Attention: Conduit Program Manager

Ladies and Gentlemen:

RE: Towson Place (AKA Towson Marketplace), 1238 Putty Hill Avenue, Towson, MD  
21286, 9th Election District

The zoning of this 43.12-acre site, per the 1" = 200' scale zoning map numbers NE 9 & 10-B is B.L.-C.C.C. (Business, Local - Commercial, community core), M.L.-I.M. (Manufacturing, Light - Industrial, major), and D.R.-10.5 (Density Residential). Enclosed are copies of zoning case number 98-245-SPH, in which the deputy zoning commissioner granted a special hearing which sought clarification and revisions, if necessary, of restrictions in prior approved zoning case numbers IX-386 and 96-95-XA and an amendment to the site plan approved in case numbers IX-386 and 97-89-SPHX.

Also see attached sheet summarizing all prior zoning hearings held on this site. In accordance with the zoning classification and granted zoning hearings, the use of a retail shopping center, including an automotive service garage ancillary to the Montgomery Ward Department Store, complies with the Baltimore County Zoning Regulations (BCZR). Also enclosed are copies of the appropriate sections of the BCZR. A review of files in the Code Enforcement office found no current violations.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 410-887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "John J. Sullivan, Jr.".

John J. Sullivan, Jr.  
Planner II, Zoning Review

c: zoning case numbers 98-245-SPH, 97-89-SPHX, 96-95-XA, 93-360-SPHA, 88-136-SPH, 79-125-X, 77-230-XA, 74-143-R, 68-83-R, and 5900

Come visit the County's Website at [www.co.ba.md.us](http://www.co.ba.md.us)



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on Recycled Paper





Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

October 5, 1995

John B. Gontrum, Esquire  
814 Eastern Boulevard  
Baltimore, MD 21221

RE: Preliminary Petition Review (Item #100)  
Towson Marketplace  
9th Election District

Dear Mr. Gontrum:

At the request of the attorney/petitioner, the above referenced petition was accepted for filing without a final filing review by the staff. The plan was accepted with the understanding that all zoning issues/filing requirements would be addressed. A subsequent review by the staff has revealed unaddressed zoning issues and/or incomplete information. The following comments are advisory and do not necessarily identify all details and inherent technical zoning requirements necessary for a complete application. As with all petitions/plans filed in this office, it is the final responsibility of the petitioner to make a proper application, address any zoning conflicts and, if necessary, to file revised petition materials. All revisions (including those required by the hearing officer) must be accompanied by a check made out to Baltimore County, Maryland for the \$100.00 revision fee.

Other hearings needed...see my DPC comments dated 9/28/95.

If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John J. Sullivan, Jr.", written in dark ink.

John J. Sullivan, Jr.  
Planner II  
Zoning Review

JJS:scj

Enclosure (receipt)

c: Zoning Commissioner





## KNETTISHALL COMMUNITY ASSOCIATION, INC.

---

October 15, 1995

Mr. Timothy Kotroco  
Deputy Zoning Commissioner  
Towson Courthouse, Room 112  
400 Washington Avenue  
Towson, Maryland 21204

Dear Mr. Kotroco

On Sunday, October 15, 1995, the Knettishall Executive Board was presented with a petition signed by 251 out of the 324 households contacted in our community. Our community is comprised of 364 households. This petition was presented to us by Leon and Lorraine Rozankowski who initiated the petition. A copy of the petition is on file with the zoning commission.

The petition was given to us to view, however, photocopies of the petition and signatures remain in the possession of Mr. and Mrs. Leon Rozankowski.

This information is being forwarded to your office due to the upcoming hearings concerning the Towson Marketplace.

The Knettishall Executive Board.

*Rebecca Boor*

Rebecca Boor, President

*Anne Levine*

Anne Levine, Vice President

*Dawn Goodman*

Dawn Goodman, Secretary

cc: Knettishall Board of Directors  
Mr. and Mrs. Leon Rozankowski

Page 1 of 1

## PETITION AGAINST A ZONING CHANGE TO ALLOW THE OPERATION OF THEATERS IN TOWSON MARKETPLACE

We, the undersigned, as residents of the communities surrounding Towson Marketplace, are strongly opposed to any redevelopment of the Towson Marketplace property that includes the operation of theaters in the shopping center.

We firmly believe that the operation of a multi-theater complex as part of Towson Marketplace will have an adverse impact on the quality of life in the surrounding communities in that the operation of theaters in the Marketplace will increase both pedestrian and vehicular traffic in these residential areas during all hours of operation. This increase in pedestrian and vehicular traffic will undoubtedly increase the incidence of car theft, vandalism, and other disturbances at hours during which we currently enjoy the peace and tranquility that our residential area affords to us.

Towson Marketplace is unique in that it is entirely surrounded by residential communities. The zoning should not be changed to accommodate theaters and thereby jeopardize the peaceful enjoyment of the surrounding properties by their residents. This area of northern Baltimore County is already more than adequately served by sixteen theaters (Towson Commons - 8, Yorkridge - 4, Timonium - 3, and the Senator) within a three mile radius of Towson, and any additional theaters can only reduce attendance and income for these established tax and employment generating businesses.

SIGNATURE

NAME, STREET ADDRESS with ZIP & PHONE (printed)

DATE

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

4 \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

*RODRIGO*  
**SAMPLE PETITION  
REFERRED TO IN  
THE KNETTISHALL  
EXECUTIVE BOARD  
LETTER OF OCT. 15, 1995  
LEON J. ROZANIKOWSKI**

**PLEASE NOTE:** It is also VERY IMPORTANT that you attend the HEARING on this issue, if possible. If you have provided a phone number above, we will ATTEMPT to notify you of the location, date, and time of the hearing.

**Notice of the hearing specifics will also be posted around the Marketplace property. In addition to signing this petition, you can also express your opposition to:** Arnold Jablon, Director, Dept. of Permits & Development Mgmt., County Office Building, 111 W. Chesapeake Ave., Towson, MD 21204

**RETURN COMPLETED PETITIONS TO:** NO MOVIES c/o SarSys, P.O. BOX 20247, Towson, MD 21284-0247

100

**ROMADKA, GONTRUM & McLAUGHLIN, P.A.**

814 Eastern Boulevard  
Baltimore, Maryland 21221

TELEPHONE: (410)686-8274  
FAX# 686-0118

ROBERT J. ROMADKA  
JOHN B. GONTRUM  
J. MICHAEL McLAUGHLIN, JR.\*

ELIZABETH A. VANNI

\*ALSO ADMITTED IN D.C.

August 22, 1995

David Flowers, Coordinator  
Permits and Development Management  
County Office Building  
111 W. Chesapeake Ave.  
Towson, Maryland 21204

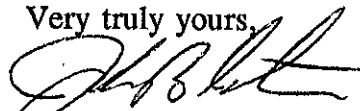
Re: Towson Marketplace

Dear Mr. Flowers:

At this time on behalf of the owners of Towson Marketplace we wish to make a joint filing for development plan approval and for a special exception and parking variance. We are requesting pursuant to Section 26-203(f) combined hearings. We would anticipate that this case will take at least three (3) days and possibly four (4) days of hearing time on the zoning and development issues.

Thank you for courtesy and consideration.

Very truly yours,



John B. Gontrum

RECEIVED

AUG 24 1995

ZADM

**KCW Consultants, Inc.**

*Civil Engineers and Land Surveyors  
3104 Timanus Lane, Suite 101 / Baltimore, Maryland 21244*

*(410) 281-0030 / 281-0033 / Fax (410) 298-0604*

100

August 31, 1995  
Baltimore County Office of Zoning  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Attention: Mr. Carl Richards

Reference: "Towson Marketplace"  
Petition for Special Exception and Variance

Gentlemen:

The petitions for special exception and zoning variance were transmitted to your office on August 23, 1995 with two checkprints. In the interim additions have been made to the Development Plans as a result of comments from Permits and Development Management. Enclosed herewith are twelve (12) revised prints of Proposed Conditions Development Plan D-1, Alternate Proposed Conditions Development Plan D-2, and Existing Conditions Plan D-3 for use in processing the petitions for special exception and zoning variance.

To the best of our knowledge, KCW Consultants, Inc. as civil engineers for the redevelopment project, John Gontrum as attorney for the applicant, and James Schlesinger as owner are unaware of any existing zoning violations on the property. We are also unaware as to whom within the Office of Zoning was previously involved in the review of this property.

Enclosed here with is a check in the amount of \$585.00 for the variance fee of \$250.00, special exception fee of \$300.00, and signage fee of \$35.00.

For the petition applications, Mr. Schlesinger's title is that of general partner of Talisman - Towson Partnership LLC.

Please note that we have requested from PADM to allow the special exception for theaters, zoning variance for parking and development plan hearing to occur as a combined hearing.

Very truly yours,  
KCW Consultants, Inc.

*Douglas L. Kennedy*  
Douglas L. Kennedy, P.E.

DLK/s  
cc: 94150

KCW CONSULTANTS, INC.  
Civil Engineers & Land Surveyors  
3104 Timanus Lane Suite 101  
BALTIMORE, MARYLAND 21244

# LETTER OF TRANSMITTAL

(410) 281-0030 281-0033

100

DATE	AUG. 23, 1995	JOB NO.	94150
ATTENTION	CARL RICHARDS		
RE:	TOWSON MARKETPLACE REDEVELOPMENT		
ZADM FILE NO. IX-386			

TO OFFICE OF ZONING

111 W. CHESAPEAKE AVENUE

TOWSON, MARYLAND 21204

will drop off plots +  
B by 8/31 lunchtime  
per Doug Kennedy

WE ARE SENDING YOU the following items:

- |   |  |                                |                                  |   |
|---|--|--------------------------------|----------------------------------|---|
| <input type="checkbox"/> Shop drawings  | <input checked="" type="checkbox"/> Prints | <input type="checkbox"/> Plans | <input type="checkbox"/> Samples | <input type="checkbox"/> Specifications |
| <input type="checkbox"/> Copy of letter | <input type="checkbox"/> Change order      | <input type="checkbox"/>       |                                  |   |

COPIES	DATE	NO.	DESCRIPTION
3	8-22-95	2	PETITION FOR VARIANCE ~ PREPARED BY JOHN GONTRUM
3	8-22-95	1	PETITION FOR SPECIAL EXCEPTION- PREP. BY JOHN GONTRUM
1	8-22-95	1	COPY OF LETTER TO DAVID FLOWERS REQUESTING
			JOINT FILING FOR DEVELOPMENT PLAN, VARIANCE, SPEC. EXCEPT.
2	6-5-95	D-1	DEVELOPMENT PLAN
2	6-5-95	D-2	ALTERNATE DEVELOPMENT PLAN
1	8-22-95	-	1"=200' SCALE ZONING MAP
3	8-23-95	-	ZONING DESCRIPTION -

THESE ARE TRANSMITTED as checked below:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> For approval            | <input type="checkbox"/> Approved as submitted    | <input type="checkbox"/> Resubmit              |
| <input type="checkbox"/> For your use            | <input type="checkbox"/> Approved as noted        | <input type="checkbox"/> Submit                |
| <input checked="" type="checkbox"/> As requested | <input type="checkbox"/> Returned for corrections | <input type="checkbox"/> Return                |
| <input type="checkbox"/> For review and comment  | <input type="checkbox"/>                          |  |
| <input checked="" type="checkbox"/> FOR BIDS DUE | 19  | <input type="checkbox"/> PRINTS RETURNED AFTER |

REMARKS PLEASE ACCEPT THIS "DROP-OFF" PACKAGE AS OUR PETITION FOR VARIANCE AND SPECIAL EXCEPTION NECESSARY FOR REDEVELOPMENT OF THE TOWSON MARKETPLACE SHOPPING CENTER. A REQUEST FOR JOINT FILING IS BEING SUBMITTED TO DAVID FLOWERS.

UPON YOUR CONCURRENCE WITH THESE PETITIONS, WE WILL SUBMIT THE FULL DEVELOPMENT PLANS FOR REVIEW AND SCHEDULING OF HEARING, AND THE NECESSARY FEES.

PLEASE CALL ME AT 281-0033 IF ADDITIONAL INFORMATION IS NECESSARY AT THIS TIME.

COPY TO J.O. 94150  
JOHN GONTRUM  
JAMES SCHLESINGER

SIGNED:

Douglas L. Kennedy

If enclosures are not as noted, kindly notify us at once.

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RECEIVED

AUG 24 1995

ZADM

KCW CONSULTANTS, INC.  
Civil Engineers & Land Surveyors  
3104 Timanus Lane Suite 101  
BALTIMORE, MARYLAND 21244

# LETTER OF TRANSMITTAL

(410) 281-0030 281-0033

DATE	AUG. 31, 1995	JOB NO.	94150
ATTENTION	SOPHIE		
RE:	TOWSON MARKETPLACE		
100			

TO OFFICE OF ZONING  
111 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via \_\_\_\_\_ the following items:

- ☐ Shop drawings ☒ Prints ☐ Plans ☐ Samples ☐ Specifications  
☐ Copy of letter ☐ Change order ☐ \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
12	8-22-95	D-1	PROPOSED CONDITIONS DEVELOPMENT PLAN
12	8-22-95	D-2	ALTERNATE PROPOSED CONDITIONS DEVELOPMENT PLAN
12		D-3	EXISTING CONDITIONS DEVELOPMENT PLAN
1	8-31-95	-	KCW CHECK #13693 IN THE AMOUNT OF \$585.00.
	8-31-95	-	LETTER OF EXPLANATION.

THESE ARE TRANSMITTED as checked below:

- ☐ For approval ☐ Approved as submitted ☐ Resubmit \_\_\_\_\_ copies for approval  
☒ For your use ☐ Approved as noted ☐ Submit \_\_\_\_\_ copies for distribution  
☐ As requested ☐ Returned for corrections ☐ Return \_\_\_\_\_ corrected prints  
☐ For review and comment ☐ \_\_\_\_\_  
☐ FOR BIDS DUE \_\_\_\_\_ 19 \_\_\_\_\_ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS \_\_\_\_\_  
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COPY TO V.O. 94150

SIGNED:

*Douglas L. Kennedy*

If enclosures are not as noted, kindly notify us at once.



10/2/95  
8

September 28, 1995  
Towson Marketplace Liaison Committee  
Martha H. Clarke  
Chairperson  
828 East Joppa Road  
Towson, MD 21286

Talisman Towson Limited Partnership  
c/o Schlesinger Companies, Inc.  
1500 San Remo Avenue, Suite 185A  
Coral Gables, Florida 33146  
Attn: James Schlesinger

By Certified Mail  
Z 175 747 255

Talisman Towson Limited Partnership  
c/o Towson Marketplace Management Office  
1238 Putty Hill Avenue  
26 Towson Marketplace  
Towson, MD 21286  
Attn: Manager

By Certified Mail  
Z 175 747 254

RE: Formal Notice Of Apparent Non Conformance  
With Restrictive Declaration and Agreement

Dear Mr. Schlesinger:

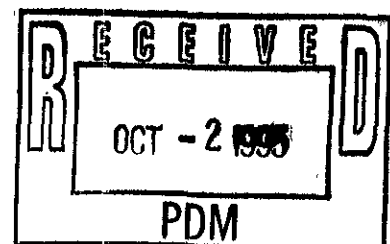
The Towson Marketplace Liaison Committee (herein referred to as TMLC) has reviewed the Development Plan(s) you have submitted to the PDM/Development Management of Baltimore County. In particular we have reviewed the Towson Marketplace Redevelopment Proposed Conditions Development Plan. Drawings D-1, D-2, D-3, dated August 22, 1995. The following is a listing of issues we have identified that appear to be outside the scope of The Agreement as a result of our preliminary review.

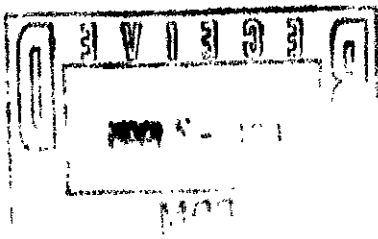
1. The proposed garage appears not to be within the boundaries of the Approved Building Areas (ABA) (See Article I, A(3)(b)(i) and Exhibit C). In addition from the information reviewed it was not possible to determine the specifications of the garage. However, we want to reiterate the language in Article I, A(3)(a) meeting the height of two(2) stories, and requiring the garage "...shall not exceed a height so as to be visible from Joppa Road above the existing screening wall."

2. The 9,000 sq.ft. Pad Site proximate to Blockbuster Video appears to be outside the boundaries of ABA 5 (See Exhibit C, Article I, A(3)B(iv)).

3. The Development Plan identifies a new entrance proximate to Marshalls. This appears to be a Major Change as defined in Article II, E(2)(a) and would require the approval of the TMLC.

4. The Development Plan appears to relocate the Putty Hill entrance more than 12 feet from its existing location. This appears to represent a Major Change (See Article II, E(2)(a)).





5. The footprint of the proposed Tenant #4 appears to be outside the boundaries of ABA 4 (See Exhibit C).

6. The proposed Auto Express for Montgomery Ward appears to be outside the boundaries of ABA 3. Pursuant to The Agreement ABA 3 does not provide for construction of retail space (See Exhibit C) (Article I A(3)(i)).

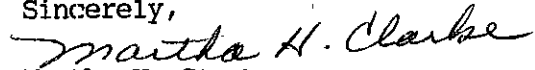
7. Although the Development Plan submitted does not specify landscaping or signage The Agreement identifies both of these as Major Changes requiring the approval of the TMLC (See Article I,D(3)).

Although we have enumerated seven potential issues the list is not intended to be conclusive as there may be more issues that could be violations of The Agreement between the parties.

You have stated on numerous occasions that you can develop the property within the 1989 Declaration and Agreement. We are concerned that your Development Plan, which has been submitted to Baltimore County, appears not to be within The Agreement nor have you formally requested approval of the TMLC. As you are aware changes such as these require the approval of the TMLC after a written submission by the owner to the Committee (See Article II D,E(1)(2)(a)(b)(c)(d)(e)F G H ).

It appears there are issues that we need to resolve. We would appreciate your response to our concerns.

Sincerely,



Martha H. Clarke  
Chairperson

Towson Marketplace Liaison Committee

cc Mr. John Gontrum, Esquire  
Mr. Lawrence Schmidt, Esquire  
✓ Mr. David Flowers  
Honorable Douglas B. Riley  
Mr. Douglas Burgess, Esquire  
Mr. Pat Cassidy, Towson Estates Association, Inc.  
Mrs. Jane Callaghan, Fellowship Forest Community Association  
Ms. Jean Marie Stocksdale, Knettishall Community Association  
Mrs. Dale Livingston, Knettishall Community Association  
Mr. John Barry, Associates of Loch Raven Village  
Mrs. Jodi Loch, Campus Hills Community Association  
Ms. Hertha Krotkoff, Cromwell Valley Community Association  
Mrs. Cristy Garman, Cromwell Valley Community Association



EX-386 & 96-95-XA

ROBERT W. CANNON  
Phone: (410) 332-8816  
Fax: (410) 332-8817  
rcannon@saull.com  
[www.saul.com](http://www.saul.com)  
Our File: 904767.00123

July 9, 2001

**VIA FACSIMILE AND FIRST CLASS MAIL**

Hon. Timothy M. Kotroco  
Deputy Zoning Commissioner  
Baltimore County  
401 Bosley Avenue  
Towson, Maryland 21204

**Re:    *Towson Marketplace*  
      *The Great Indoors (Sears)***

Dear Commissioner Kotroco:

This will confirm our meetings with respect to the plans of Sears, Roebuck and Company to locate one of their newest concepts called "The Great Indoors" in the space formerly occupied by Montgomery Ward at Towson Marketplace. During our meetings, I presented to you for your review, materials relating to The Great Indoors concept which Sears started in February of 1998 in Denver, Colorado, followed by another in Scottsdale, Arizona. As the materials indicate, The Great Indoors is designed around the four main rooms in the home: kitchen, bath, bedroom and great room.

During our meetings, we reviewed elevations prepared by the architects working with Sears in connection with this project which portrayed the presentation of the east and south sides of the former Wards premises. These elevations showed the planned colors of the facades, the signage attached to the buildings and a new entry addition which runs along a portion of the east side of the premises and which contains metal roofs which breaks up the monotony of the flat wall. The signage affixed to the building is internally illuminated.

As a result of our meetings and review of materials, you have advised me that the materials which I presented to you on behalf of The Great Indoors consisting of the redesign of the facades, the proposal for the signage on the buildings with internal illumination (subject to a detailed analysis to determine whether or not the proposed signage is allowable under the zoning regulations without a zoning variance, or, if a variance is required, that appropriate steps will be taken to seek approval of any such variance), and the redevelopment

with the new entry addition of 909 square feet enclosed and an additional 274 square feet under canopy is a refinement to the existing plan, (particularly because it does not encompass any sales area), and is within the spirit and intent of the previously approved plans for the site.

Please confirm that this letter represents your approval of these matters by signing a copy of this letter in the place provided and returning a copy to me by facsimile. If you have any questions or if this is inconsistent in any way with our discussions, please advise.

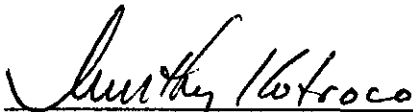
Thank you for your consideration.

Respectfully yours, ..



Robert W. Cannon

Approval confirmed:



Timothy M. Kotroco,  
Deputy Zoning Commissioner  
Baltimore County, Maryland

*The illuminated signs may have to  
be extinguished after hours. I will  
advise you of this at a later date.*

*TMK*

*Signed: 7/17/01  
(7/17/01)*

TOWN OF TAILSMAN MARKETPLACE ZONING HISTORY		
CASE NO.	DATE	DESCRIPTION
5900		Variance for identification sign
68-83-R		Reclassification from R-6 to B.L.
74-143-R	Approved Jan. 7, 1974	Reclassification of 0.33 acres from B.L. to B.M. for Martin's catering.
77-230-XA	Approved	Variance to permit 3047 off-street parking spaces in lieu of the required 3415 spaces (-368 parking spaces). Use of theaters was denied.
79-125-X	Approved Feb. 5, 1979	Special Exception for automotive service garage in Montgomery Wards.
1984 Compr. Zoning Maps	1984	B.L.CCC and D.R.5.5 (13.9 acres)
88-136-SPH	Denied Jan. 29, 1988	SPH for a use permit to store new automobiles in D.R.5.5 zone.
1988 Compr. Zoning Maps	1988	Zoning Change: D.R.5.5 to B.L.-CCC
Permit 104135 C-1664-88	Approved March 1989	Site plan updated to include "Blockbuster Video" pad site building.
93-360-SPHA	Approved June 24, 1993	Variance for 0' setback for existing parking SPH to amend site plan for Hemphill's Outdoor Garden Center.
96-95-XA and Development Plan #IX-386	Approved Nov. 9, 1995 Amended Order Feb. 22, 1996	Variance for parking granted for continuance of -368 p.s. per #77-230-XA and additional -130 p.s. to allow 2972 p.s. total. Relocation of auto service garage previously approved per #79-125-X granted for new location specified on Development Plan #IX-386.
97-89-SPHX, and Development Plan #IX-386	Approved Oct 8, 1996	SPH to approve Amended Development #IX-386. Special Exception to approve relocation of auto service garage previously approved per Case #79-125-X and Case #96-95-XA.
98-245-SPH	Approved March 31, 1998	SPH to clarify previous restrictions #3 & #4 case #96-95-XA as they relate to exhibits 11(a), 11(b) and 12 in that case and an amendment to the site plan in case #97-89-SPHX (3 restrictions) also the lighting plan and jurisdiction and authority to modify same shall be with the DZC (Deputy Zoning Commissioner). Also the DZC shall have jurisdiction over any changes in the facades. Also all of the terms and conditions and restrictions in prior case #IX-386 and #96-95-XA and #97-89-SPHX shall remain in full force and effect unless changed by this Decision.
00-213-SPH	Approved Jan. 1, 2000	SPH to amend restrictions in prior cases to permit the Toys-R-US façade and installation. To allow a hedgerow in lieu of brick wall along Putty Hill Ave. In accordance with agreement entered into between the parties, Tailsman and CAMM, Inc., dated 12/17/99, which shall be incorporated in this Order.

See 02-204-SPH - 2-15-02  
+ IX-386 Hearing



**TOWSON MARKETPLACE REDEVELOPMENT  
EXISTING CONDITIONS DEVELOPMENT PLAN**  
Drawing No. D-3

OWNER/DEVELOPER:

Tishman, Towne Partnership LLC  
1500 Glen Ridge Avenue, Suite 100-A  
Baltimore, MD 21202  
Attn: James Schaefer  
Tel: (301) 552-9559

PREPARED BY:

KCW Consultants, Inc.  
Civil Engineers and Land Surveyors  
3104 TOWSON LANE, SUITE 101  
TOWSON, MARYLAND 21204  
Attn: Douglas L. Kennedy, P.E.  
Tel: (410) 281-0033

DEED REFERENCE:

Lot 14 of "Towson Square"  
Map Book 21, Page 102

PLAT REFERENCE:

Map Book 21, Page 102

TAX ACCOUNT NO.:

0925640080

AREA:

43.12 acres

ELECTION DISTRICT:

C-4

WATERSHED:

Herring Run

SUBDIVISION:

4972.01

WATER DESIGNATION:

S-1 (Existing Public Water)

SANITARY DESIGNATION:

S-1 (Existing Public Sanitary)

EXISTING ZONING:

M-L-M (0.51 ac), D-R (0.05 ac)

EXISTING LAND USE:

Real Shopping Center

EXISTING BUILDING AREA:

555,500 sq. ft.  
Gross Building Area  
453,500 sq. ft.  
Gross Usable Area

PARKING:

Existing Shopping Center  
493,500 sq. ft. G.L.A. x 5.0 s.p. per 1000 sq. ft. = 2,468 p.s.  
Existing Required Parking Spaces = 2,468 p.s.  
Existing Required Parking Spaces = 2,468 p.s.  
Existing Required Parking Spaces = 2,468 p.s.

ENVIRONMENTAL:

Developed with an existing retail shopping center and parking. To the best of our knowledge, there are no 100-year floodplains, wetlands, streams, ponds, bodies of water, significant cultural resources, or other environmental resources on or within 100 ft. of this site.

HERITAGE:

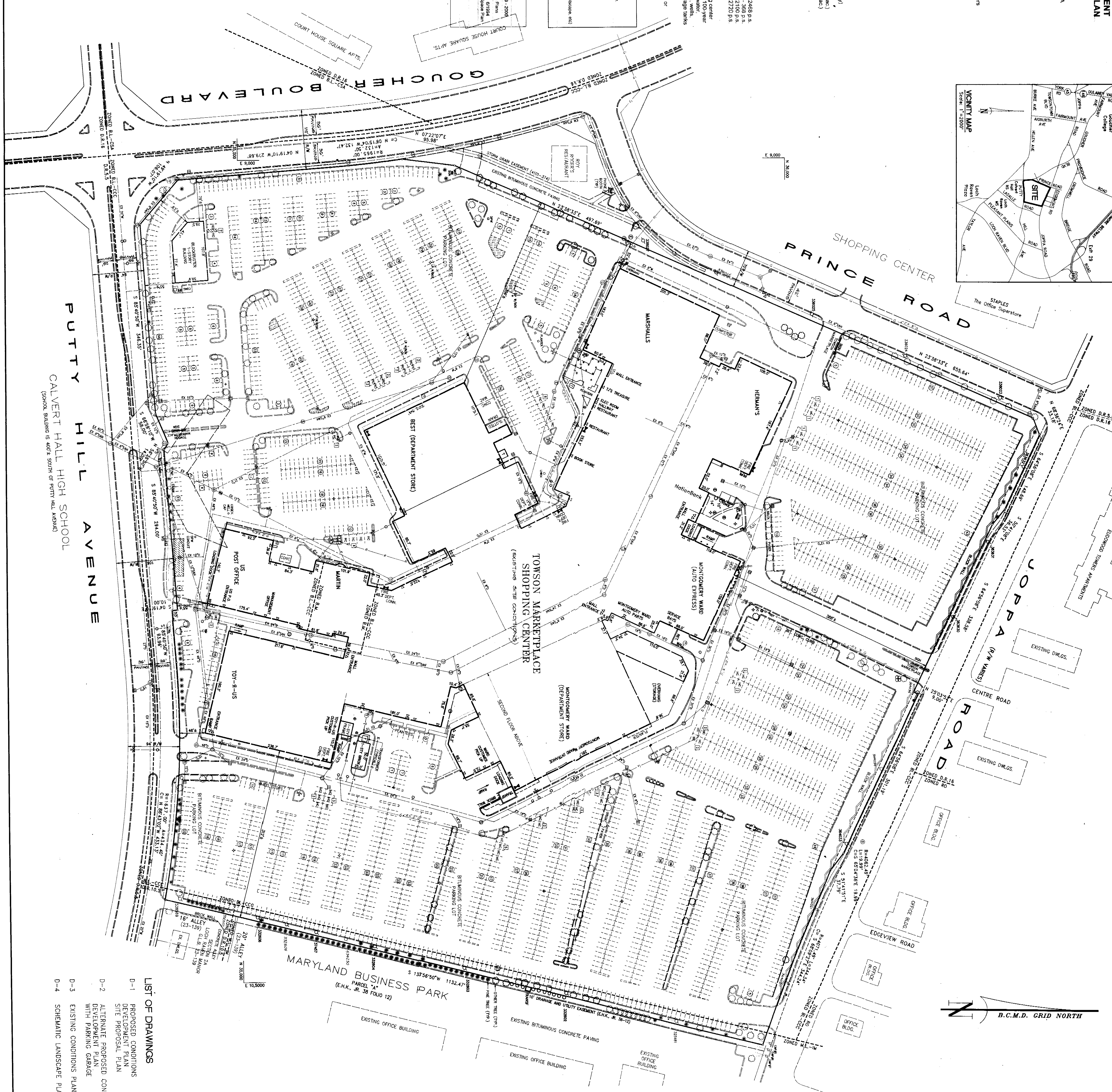
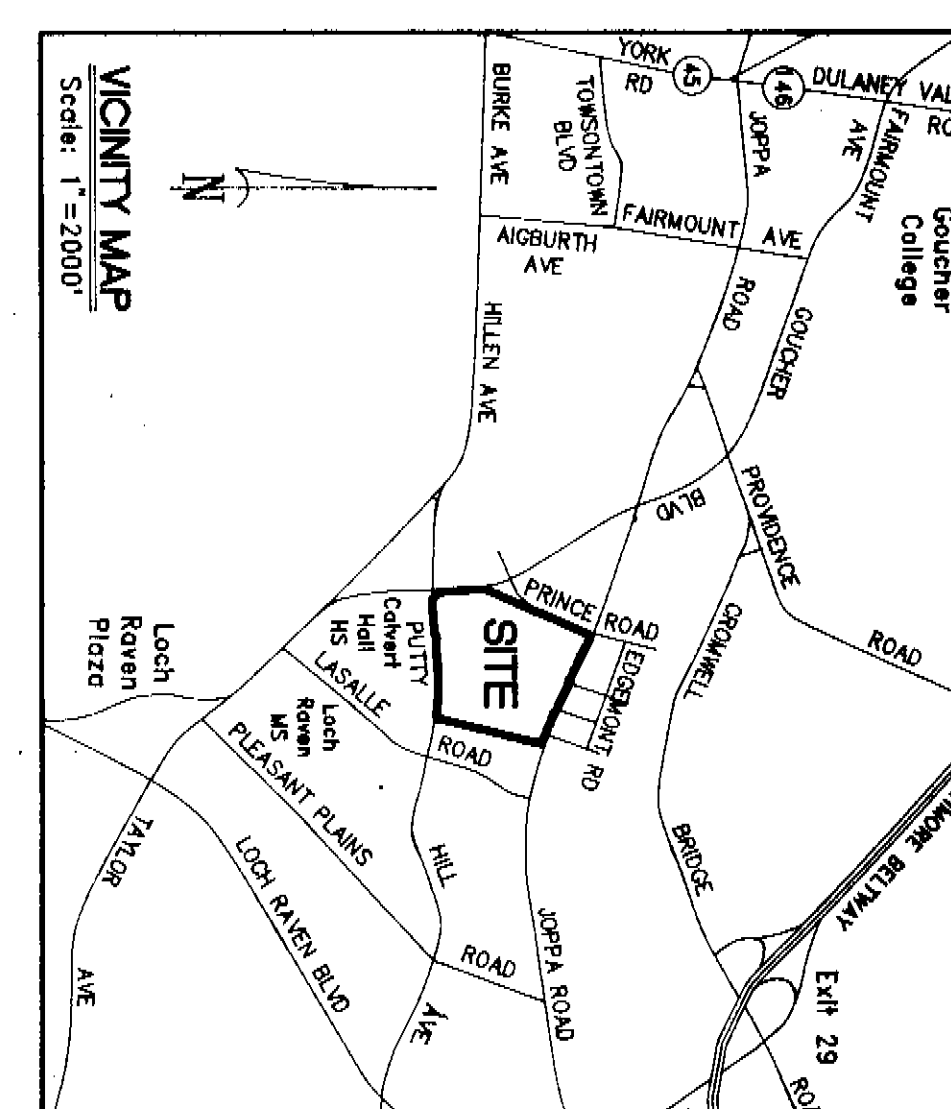
There are no known historic buildings or sites on or adjacent to this project.

EXISTING BUILT CONDITIONS:

NOT EXISTING  
Location of existing buildings within 200 ft. of site  
Location of existing roads within 200 ft. of site  
Designated historic areas  
Designated archaeological sites  
Significant views  
Significant features (trees, trees, buildings, structures, etc.)  
Land uses on and within 200 ft. of site  
Road right-of-way and easements

COUNTY ADOPTED PLANS:

NOT EXISTING  
Baltimore County Master Plan, 1989-2000  
Community or Redevelopment Plans  
Recreation and Parks Plan, 1994  
Towson Community Open Space Plan  
Greenways Plan



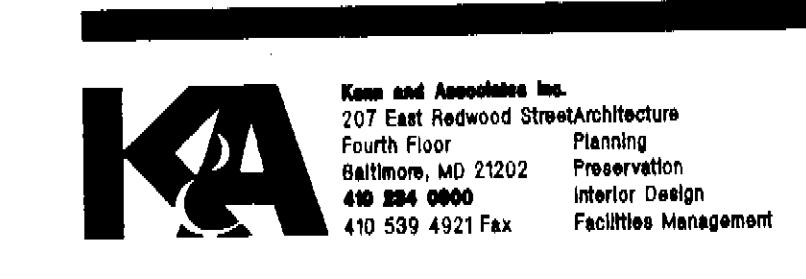
# TOWSON MARKETPLACE

9TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND  
SCALE: 1"=60' DATE: APRIL 5, 1995

BALTIMORE COUNTY ZADM IX-386

DWG. NO. D-3  
EXISTING CONDITIONS DEVELOPMENT PLAN  
SITE CONSTRAINTS PLAN

ENGINEER'S CERTIFICATION  
I HEREBY CERTIFY THAT THIS DEVELOPMENT PLAN IS ACCURATE AND HAS BEEN PREPARED IN ACCORDANCE WITH BALTIMORE COUNTY DEVELOPMENT REGULATIONS.  
Douglas L. Kennedy  
KCW CONSULTANTS, INC.  
DOUGLAS L. KENNEDY, P.E. #10748  
APRIL 5 1995  
DATE



KCW Consultants, Inc.  
CIVIL ENGINEERS AND LAND SURVEYORS  
3104 TOWSON LANE  
SUITE 101  
BALTIMORE, MARYLAND 21204  
(410) 281-0033  
COMPUTED: LVB + DRAKE LVB + CHECKED: DLK



# TOWSON MARKETPLACE REDEVELOPMENT PROPOSED CONDITIONS DEVELOPMENT PLAN Drawing No. D-2

## PREVIOUS ZONING CASES

CASE NO.	DATE	DESCRIPTION
5900		Variance for Identification Sign
68-83-R	Approved	Reclassification from R-4 to B.L.
74-143-R	Approved	Reclassification of 0.33 ac. from B.L. to B.M. for Mariner catering
77-230-XA	Approved	to permit 3047 off-street parking spaces in lieu of the required 3415 spaces (368 parking spaces)
79-125-X	Approved	Special Exception for automotive service garage in Maryland Park
1984-Corpus	Approved	BL-COC and DR 5.5(13) ac
1984	1984	BL-COC and DR 5.5(13) ac
88-135-SPH	Denied	SPH for a use permit to store new automobiles in DR 5.5 zone (denied)
1988 Corp.	Approved	Jan. 29, 1988
Zoning Maps	1988	Zoning Change DR 5.5 to B.L.-COC
1988	Approved	Site Plan updated to include
1984-88	Approved	Blockbuster Video, paid the building
C-1984-88	March 1989	Variance for off-street parking
93-365-SPH-A	Approved	parking, SPH to amend Site Plan for the Philip's Outdoor Garden Center.
	June 24, 1993	

31. PUBLIC SAFETY: Public safety will be addressed as part of the renovation project by implementation of a security staff and monitoring equipment.

32. COMBINED HEARING: Per Baltimore County Development Regulation Section 25-24(c), a request has been made for a combined Regulatory and Planning Board hearing for the proposed Redevelopment Plan for the redevelopment of Towson Marketplace.

33. COMMUNITY MEETING: A Community Input Meeting was held at the Towson Senior High School on August 18, 1995. Issues raised included public safety, parking, and the impact of the proposed development on the surrounding community. A public safety plan has been submitted with the redevelopment plan as an alternative to meet the parking requirement per B.C.Z.R. Per B.C.Z.R. Section 25-13, a Special Exception for the proposed use of the site in the B.L.-COC zoning district has been requested.

## DEVELOPER'S DELINQUENT ACCOUNTS CERTIFICATION

We hereby certify that there are no delinquent accounts for any other development with respect to the applicant or a person with financial interest in the proposed development.

*Douglas L. Kennedy*  
James A. Schilling  
Towson Township Partnership LLC

6-22-95

for Towson Township Partnership LLC

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**TOWSON MARKETPLACE REDEVELOPMENT  
EXISTING CONDITIONS DEVELOPMENT PLAN**  
Drawing No. D-3

OWNER/DEVELOPER:

Tishman, Towne Partnership LLC  
1500 Glen Ridge Avenue, Suite 100-A  
Baltimore, MD 21202  
Attn: James Schaefer  
Tel: (301) 552-9559

PREPARED BY:

KCW Consultants, Inc.  
Civil Engineers and Land Surveyors  
3104 TOWSON LANE, SUITE 101  
TOWSON, MARYLAND 21204  
Attn: Douglas L. Kennedy, P.E.  
Tel: (410) 281-0033

DEED REFERENCE:

Lot 14 of "Towson Square"  
Map Book 21, Page 102

PLAT REFERENCE:

Map Book 21, Page 102

TAX ACCOUNT NO.

0925640080

AREA:

43.12 acres

ELECTION DISTRICT:

C-4

WATERSHED:

Herring Run

SUBDIVISION:

4972.01

WATER DESIGNATION:

S-1 (Existing Public Water)

SANITARY DESIGNATION:

S-1 (Existing Public Sanitary)

EXISTING ZONING:

M-L-M (0.51 ac), D-R (0.05 ac)

EXISTING LAND USE:

Real Shopping Center

EXISTING BUILDING AREA:

555,500 sq. ft.

EXISTING LOT AREA:

453,500 sq. ft.

PARKING:

Existing Shopping Center

493,500 sq. ft. (0.51 ac) = 2468 p.s.

Existing Required Parking Spaces

493,500 sq. ft. (0.51 ac) = 2468 p.s.

Existing Required Parking Spaces

493,500 sq. ft. (0.51 ac) = 2468 p.s.

EXISTING BUILT CONDITIONS:

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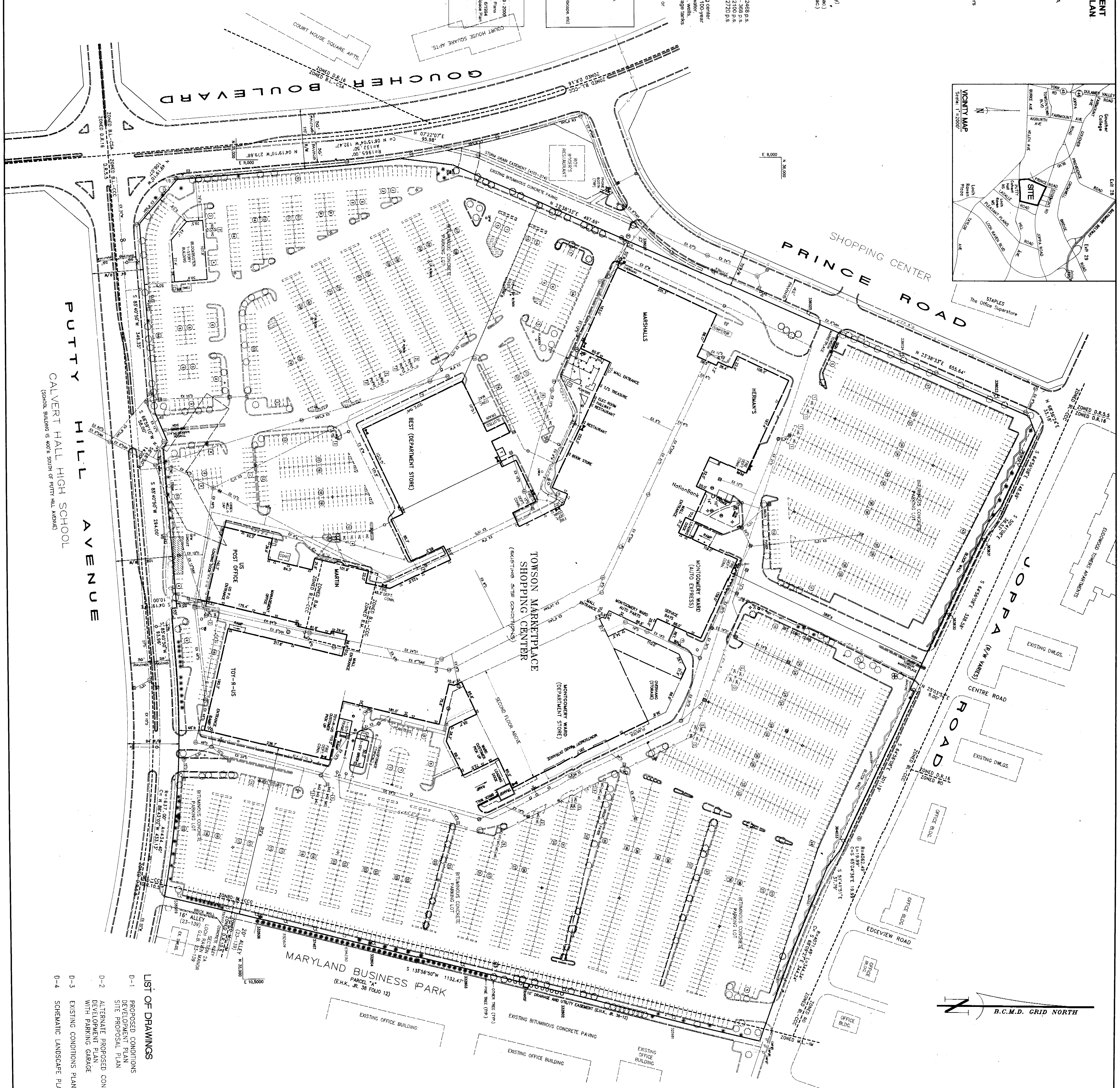
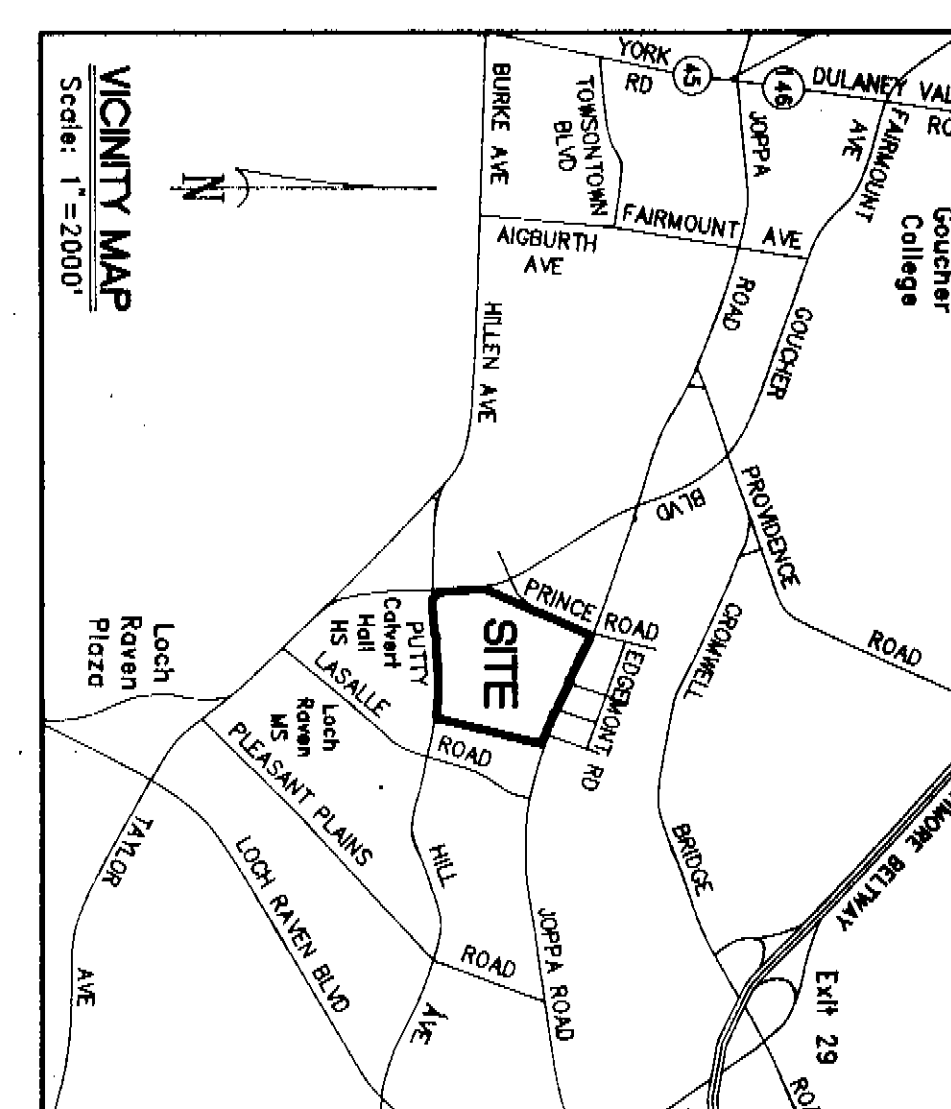
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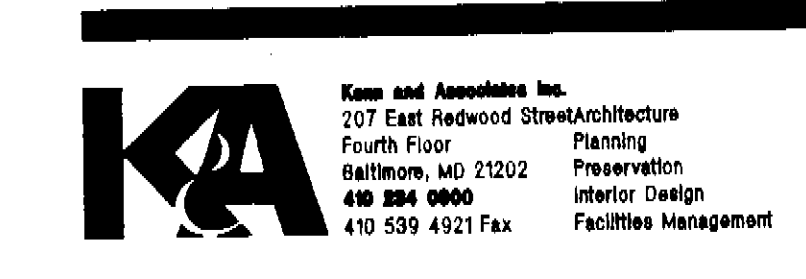
# TOWSON MARKETPLACE

9TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND  
SCALE: 1"=60' DATE: APRIL 5, 1995

BALTIMORE COUNTY ZADM IX-386

DWG. NO. D-3  
EXISTING CONDITIONS DEVELOPMENT PLAN  
SITE CONSTRAINTS PLAN

ENGINEER'S CERTIFICATION  
I HEREBY CERTIFY THAT THIS DEVELOPMENT PLAN IS ACCURATE AND  
HAS BEEN PREPARED IN ACCORDANCE WITH BALTIMORE COUNTY  
DEVELOPMENT REGULATIONS.  
Douglas L. Kennedy  
KCW CONSULTANTS, INC.  
DOUGLAS L. KENNEDY, P.E. #10748  
APRIL 5 1995  
DATE



KCW Consultants, Inc.  
CIVIL ENGINEERS AND LAND SURVEYORS  
3104 TOWSON LANE  
SUITE 101  
BALTIMORE, MARYLAND 21204  
(410) 281-0033

COMPUTED: LVB + DRAKE: LVB + CHECKED: DLK







